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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 142.

WILLIAM A. STONE, APPELLANT,

vs.

EZRA B. TOWNE, ADMINISTRATOR OF ROBERT W. BURNEY, DECEASED, AMANDA McDONOUGH AND HER HUSBAND, JOHN McDONOUGH, LEILLA FELT AND HER HUSBAND, ALBERT T. FELT, MATILDA T. BURNEY, ANNA V. BURNEY, MARY E. BURNEY, AND MINNIE BURNEY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OE MISSISSIPPI.

FILED JANUARY 27, 1874.

Affirmed

Miller J
Writ

SUPREME COURT OF THE UNITED STATES.

No. 142.

WILLIAM A. STONE, APPELLANT,

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EZRA B. TOWNE, ADMINISTRATOR OF ROBERT W. BURNEY, DECEASED, AMANDA McDONOUGH AND HER HUSBAND, JOHN McDONOUGH, LEILLA FELT AND HER HUSBAND, ALBERT T. FELT, MATILDA T. BURNEY, ANNA V. BURNEY, MARY E. BURNEY, AND MINNIE BURNEY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

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1 Pleas had at term of the circuit court of the United States for the southern district of Mississippi, in the fifth judicial circuit, begun and held in the court-room thereof, at Jackson, in said State and district, on the first Monday, being the fifth day of May, in the year of our Lord one thousand eight hundred and seventy-three. Present, the Hon. Robert A. Hill, district judge, and M. Shaughnessey, marshal of said district, and George T. Swann, clerk of said court.

EZRA B. TOWNE, ADMR., &C., OF ROBERT W. Burney, deceased, Amanda McDonough and her husband, John McDonough, Leilla Felt and husband, Albert T. Felt, and minors Matilda T. Burney, Anna V. Burney, Mary E. Burney, Minnie Burney, by their next friend, Ezra B. Towne, complainants,
vs.
WILLIAM A. STONE, DEFENDANT. } N. S. 125.

2 Be it remembered that heretofore, to wit, on the 6th day of July, 1870, came the said complainants, Ezra B. Towne, admr., &c., et al., by their solicitors, Harris and Harris, and filed in the office of the clerk of said court, their certain bill of complaint against the said defendant, William A. Stone, which, with the process, proceedings, and decrees of said court thereon, are in the words and figures following, to wit:

Original bill of complaint.

In the circuit court of the United States of America for the southern district of Mississippi.

To the judges of the circuit court of the United States for the southern district of Mississippi, in equity sitting:

Your orator, Ezra B. Towne, administrator of Robert W. Burney, deceased, late of the parish of Madison, State of Louisiana, where your orator, Ezra B. Towne, resides as a citizen; Amanda McDonough, and her husband, John McDonough, and Leilla Felt and her husband, John T. Felt, and the minors Matilda T. Burney, Anna V. Burney, Mary E. Burney, and Minnie Burney, by their next friend, Ezra B. Towne, all of whom are residents and citizens of said parish of Madison, and
3 State of Louisiana, bring this their bill of complaint against William A. Stone, a citizen of the State of Mississippi, and of the county of Copiah, at Hazlehurst, in said district: Therefore—

Your orators complain and say, that in this honorable court, upon the law dockets thereof, a declaration was filed on the 26th day of May, A. D. 1869, in behalf of said William A. Stone against Ivry F. Woodman, administrator, with the will annexed, of O. O. Woodman, deceased, praying judgment against said Ivry F. Woodman, administrator as aforesaid, upon the several promissory notes, as follows, to wit, the four promissory notes of O. O. Woodman, dated New Orleans, November 1st, 1857, payable to his own order, at the office of Brown, Johnston & Co., New Orleans, La., and by him endorsed, with eight per cent. interest per annum, from maturity until paid; the first for the sum of three thousand dollars due 15th Febr'y next, after date; the second for the sum of three thousand dollars, due 15th March next, after date; the

third, for the sum of three thousand dollars, due five months
4 after date; and the fourth for the sum of two thousand and sixty-one and $\frac{15}{100}$ dollars, due 15th April next after date; all of which will be made more fully to appear unto your honors by reference to a duly certified copy of said declaration, herewith filed, made part hereof as "Exhibit A."

And upon the same day, to wit, the 26th day of May, A. D. 1869, said Ivry F. Woodman, claiming to act as administrator aforesaid, appeared in said court, and thereupon confessed judgment in favor of said William A. Stone, upon said declaration, in manner and form following, that is to say:

WILLIAM A. STONE
vs.
IVRY F. WOODMAN, ADMR., WITH WILL ANNEXED, &c., of O. O. Woodman. } 803.

This day came into court, in his own proper person, Ivry F. Woodman, the defendant in this cause, and enters his appearance therein as administrator with the will annexed of Oliver O. Woodman, deceased, and then and there confesses and admits an indebtedness of said estate of O. O. Woodman on the notes sued on, amounting to the sum of twenty-one thousand eight hundred and sixty-eight and $\frac{35}{100}$ dol-
5 lars, and consents that judgment may now be rendered against him for said amount to bear interest from this date at the rate of eight per cent. per annum; and thereupon it is considered by the court that the plaintiff do have and recover of and from said Ivry F. Woodman, administrator, with the will annexed, of Oliver F. Woodman, said sum of twenty-one thousand eight hundred and sixty-eight dollars and 35 cents, the amount confessed as aforesaid, to be levied of the goods and chattles, rights and credits, lands and tenements of the said O. O. Woodman, in defendant's hands, to be administered under said will, together with the costs in this behalf expended, to be taxed, &c., as will more fully appear by reference to Exhibit "B," made part of this bill, and prayed to be taken as part hereof.

Your orators now show unto your honors that said promissory notes aforesaid were not exhibited with said declaration, as by the laws of the State of Mississippi required to be done; and your orators are informed and believe that said notes were never probated against the estate of said O. O. Woodman, deceased, which was then open
6 and being administered by said Ivry F. Woodman, in the probate court of the county of Warren, State of Mississippi, which your orators are advised, informed, and believe, and so charge, constitute evidence of fraud, as your orators will more fully hereafter show unto your honors.

Your orators now show unto your honors, that your orator, Ezra B. Towne, is the administrator of the said Robert W. Burney, deceased, in the State of Louisiana, duly appointed and qualified by the proper courts, as will more fully appear unto your honors by reference to a duly certified copy of his letters of administration, and bond herewith filed as part hereof, marked Exhibits "C" and "D;" and that your orators, Amanda McDonough, wife of John McDonough, Leilla Felt, wife of Albert T. Felt, Matilda T. Burney, Mary E. Burney, Anna V. Burney, and Minnie Burney are the only heirs-at-law and distributees of said Robt. W. Burney, deceased, interested in the estate, real and personal, of said decedent, and that by the laws of Louisiana, your

orator, Ezra B. Towne, as administrator as aforesaid, is also interested by law and made a party of interest in the real estate of said Robert W. Burney, deceased; and that therefore your orators are the
7 only persons of interest, or having any interest whatever in the said estate of Robt. W. Burney, deceased; which said estate consists of the following-described lands, to wit: situated in the parish of Madison, State of Louisiana, bounded on the east and west sides by the Mississippi River; on the north side by the old Hoffman tract; on the south side by the old Frederick Smith tract, now or formerly owned or occupied by Nicholson Barnes, being the same confirmed to Henry Eaton, and subsequently purchased by said Woodman, at sheriff's sale in the case of John Curtis vs. Woodman and Dennis, and containing five hundred and twenty-five acres of land; and also a certain tract of land situated in said parish and State, being known as the McKeernan tract, containing five hundred acres, more or less.

Your orators now show unto your honors, that said O. O. Woodman, deceased, and said Robt. W. Burney, deceased, in the year A. D. 1848, were intimate personal friends, and the greatest confidence existed between them one for the other, which your orators are informed and believed only ceased with the death of each; that in the year A.
8 D. 1848, said O. O. Woodman, owning the said land hereinbefore described, and not being a planter himself, entered into co-partnership with said Robt. W. Burney, deceased, who was an excellent planter, to cultivate said lands; and being mutually satisfied, said O. O. Woodman, in the year 1848, conveyed one-half of said lands to said Robt. W. Burney.

Your orators now show unto your honors, that afterwards, to wit, on the 16th day of November, 1857, said O. O. Woodman, being indebted to the firm of Brown, Johnston & Co., of New Orleans, La., made, executed, and delivered the said promissory notes, hereinbefore described, to said Brown, Johnston & Co., with two other notes, making six notes in all, and secured the same to be paid by a mortgage upon said land and premises aforesaid; a duly certified copy whereof will be exhibited to your honors, should the same become necessary and material upon the trial of this cause. And after the execution of said notes, your orators show unto your honors that two of them were paid by the said O. O. Woodman, and soon after that the said O. O. Woodman departed this life. And your orators show that his succession was
9 opened in the city of New Orleans, State of Louisiana, by the appointment of one Joseph Tickel, as testamentary executor, who, immediately after his appointment, departed for Europe, leaving said Ivry F. Woodman, his agent, by special power of attorney to administer said estate.

That your orators are informed and believe that said Ivry F. Woodman took possession of all the effects of said succession, and has since administered the property as his own.

Your orators are informed and believe that said O. O. Woodman neglected to have the said mortgage cancelled to the extent of the said two notes paid by him as aforesaid, and that said Ivry F. Woodman found them amongst the papers of said O. O. Woodman, deceased, and thereupon caused a suit to be instituted against the succession of said O. O. Woodman in the name of his son, F. O. Woodman, upon said two other notes; and the said Ivry F. Woodman, contrary to the well-established principles of the civil law, virtually confessed a judgment upon said two promissory notes long after they had been pro-

scribed by the said laws of Louisiana, where the same had been made and were payable.

10 Your orators now show unto your honors that soon after the death of O. O. Woodman, who died in August, A. D. 1858, your orators are informed and believe that said Robt. W. Burney purchased the four outstanding and unpaid notes hereinbefore described and set forth from Brown, Johnston & Co., the holders thereof, and by a regular notarial act became subrogated to all the right and interest and privileges of said Brown, Johnston & Co. in and to said mortgage aforesaid, all of which will be exhibited to your honors by a duly certified copy thereof, to be hereunto exhibited, should the same be material and necessary.

That your orators are informed and believe that said Robt. W. Burney instituted his suit in the second district of New Orleans, and obtained a decree, ordering and decreeing that said land so mortgaged should be transferred to him; and that, on the 27 day of June, A. D. 1860, Ivry F. Woodman, as the said agent and attorney of said Joseph Tickel, testamentary executor as aforesaid, before James Graham, a notary public of said State of Louisiana, in obedience to said decree of said second district court of New Orleans, executed an act of transfer and deed of sale of all the property held by said O. O. Wood-

11 man and Robt. W. Burney to said Robt. W. Burney, and acknowledged in said act full payment, and gave an acquittance therefor, as will be more fully shown unto your honors by a duly certified copy of all said proceedings, should the same become material and necessary.

Your orators now show unto your honors that they are informed and believe that by this way and manner said Ivry F. Woodman obtained possession of the said four outstanding notes, said Burney returning them to him, in good faith, as the agent of the executor aforesaid, upon receipt by said Burney of said act of transfer and sale aforesaid; and thus, your orators charge, said Ivry F. Woodman came into possession of said four promissory notes so described in said declaration aforesaid, upon which he confessed judgment as aforesaid.

Your orators now further show unto your honors that Robt. W. Burney departed this life in the year A. D. 1866, having been during the said period of his life, from said act of sale to him up to the time of his decease, in quiet and undisturbed possession of said lands, not one single act having been done by the said Ivry F. Woodman to dis-

12 turb his right thereto, and not one single claim having been made by the said William A. Stone, either against said Burney in his life time, or against the estate of said O. O. Woodman, by the probate of said notes, or otherwise, known to your orators.

Your orators are informed and believe, that said Ivry F. Woodman and said William A. Stone permitted these matters to remain as hereinbefore stated, until the lips of the father and friend of your orators became sealed in death, when the suit or declaration hereinbefore set forth is filed and exhibited by said Stone against said Ivry F. Woodman, and said judgment confessed with the sole view and intention and design and desire of both *of* said Ivry F. Woodman and William A. Stone, as your orators are informed and believe, and so charge, to defraud your orators by the judgment so obtained in this honorable court, upon the law side hereof, as hereinbefore shown, for your orators charge and they are so informed and believe, the said William A. Stone and Ivry F. Woodman have combined and conspired together to obtain said judgment aforesaid with a view of pursuing the same against the lands aforesaid in the parish of Madison, State of Louisiana, and

13 your orators charge that the suit or declaration aforesaid and confession thereon were *all and* taken upon the same day, without an exhibit of said notes, without any evidence whatever of the probate of said notes, and were fraudulently done, as your orators are informed and believe, to defraud your orators; because your orators now show unto your honors that the said William A. Stone never received the said notes aforesaid from said Brown, Johnston & Co., and never paid one dollar in consideration thereof; that said Ivry F. Woodman, in possession of the same as aforesaid, combined with said Stone to have said judgment taken, because said Ivry F. Woodman could not and ought not to have confessed the same, and that said Stone was a man of limited or small means, and had no money or means to pay therefor, or take the same up and become lawfully possessed thereof; and because the said notes had all been paid and satisfied as aforesaid by said Robt. W. Burney.

And that to defraud your orators by reason of said judgment aforesaid, said William A. Stone, by the said Ivry F. Woodman, and through the means of the said Ivry F. Woodman, caused a suit to be in-

14 stituted against your orators upon said judgment in the 13th judicial district court of Louisiana, in and for said parish of Madison aforesaid, to have the same enforced, collected, paid, and satisfied out of the lands aforesaid, which, as your orators have already shown, were in truth and fact the lands of said Robt. W. Burney; a certified copy of which said suit against your orators is herewith filed, marked "Exhibit E;" which said suit was filed in June, A. D. 1869, said judgment obtained in May, 1869, and the hurry and haste which has marked their whole proceedings, your orators charge to be evidence of fraud.

Your orators are informed and believe that said Ivry F. Woodman has employed the counsel in the obtaining of this judgment aforesaid, and in the institution of this suit aforesaid; and that the said Stone hath but the use of his name, with the sole view, aforesaid, of defrauding your orators by having the said judgment executed upon the said lands aforesaid.

That your orators knew nothing whatever of these proceedings in this hon'l court until said suit against your orators in said 13th

15 judicial district court of Louisiana was instituted as aforesaid, when said judgment was exhibited and sought to be enforced against said land; and that your orators requested the said William A. Stone and Ivry F. Woodman to desist from the prosecution of said suit and judgment aforesaid, and your orators well hoped they would have desisted therefrom.

But now so it is, may it please your honors, that the said William A. Stone and Ivry F. Woodman have in concert with each other, colluding and confederating together, refused to comply with said request and insist that said judgment was, in truth and fact, equitable, just, and obtained in good faith, well knowing that the same is illegal, unequitable, unjust, fraudulent, and void, all which actings, doings, and practices, and refusals are contrary to all good conscience and tend to the manifest wrong and injury of your orators.

Your orators are informed and believe that said judgment, rendered by this honorable court on the said 26th day of May, A. D. 1869, hath been signed and enrolled in this honorable court, but your orators do aver and say they are aggrieved by the said judgment; and that

16 they ought not to be bound thereby, nor should the same be enforced against your orators, as the same is fraudulent as afore-

said and ought to be reversed, and your orators bring this their bill within five years from the rendering of the same.

To the end therefore that said judgment of this honorable court and all proceedings thereon may be reversed, altered, and set aside and declared to be null and void, and that said defendant, William A. Stone, may answer in the premises, and that your orators may be relieved in all and singular the premises according to equity and good conscience, your orators pray that said William A. Stone may be made party defendant to this bill and that he may come into court here and a full complete answer make to this bill and all the allegations thereof, and your orators pray your honors to decree that said judgment aforesaid, rendered on said 26th day of 26*th day of* May, A. D. 1869, may be reviewed, reversed, altered, and declared to be null and void, and that the same may be fully cancelled and removed from the rolls of this honorable court, and held for naught and be set aside, and all pro-
17 ceedings thereon had or taken and for general relief in the premises; and your orators pray that your honors shall grant unto them the most gracious writ of injunction, enjoining, restraining, and prohibiting said William A. Stone from any and all other and further proceedings upon said judgment aforesaid against your orators, until the further order of your honors had herein, and that said injunction may be made perpetual.

May it please your honors to grant to your orators the most gracious writ of subpœna of the United States, directed to the said William A. Stone, commanding him to be and appear, &c., and abide the decree of this honorable court hereon; and as in duty bound your orators will ever pray, &c.

HARRIS AND HARRIS.

UNITED STATES OF AMERICA,
The Southern District of Mississippi:

Personally appeared before the undersigned, a commissioner of the United States for said district, E. B. Towne, one of the complainants in said bill, who made oath that the facts stated in the foregoing bill are true where stated of his own knowledge, and where stated
18 on information and belief he believes the same to be true.

E. B. TOWNE.

Sworn and subscribed to before me this 4th day of July, A. D. 1870.
LAZ. LINDSEY, *U. S. Commr.*

We are securities for costs in this case.

HARRIS AND HARRIS.

Original bill and exhibits filed July 6th, 1870.
G. T. SWANN, *Clk.*

Spa. to Aug. rules, 1870. Issued July 7, 1870.
G. T. SWANN, *Clk.*

Exhibit "A" to bill of complaint.

In the district court of the United States for the southern district of Mississippi.

WILLIAM A. STONE
vs. } 803.
IVORY F. WOODMAN, ADMR., &C.

Pleas before the honorable Robert A. Hill, district judge of the United

States for the districts of Mississippi, at a term of the circuit court of the United States for the 5th judicial district and southern district of Mississippi, begun and held for said district at the court-room in the city of Jackson, in said district, on the 4th Monday of May, in the year of our Lord one thousand eight hundred and sixty-nine,
19 and in the 93rd year of the Independence of the United States of America.

Be it remembered that heretofore, to wit, on the 26th day of May, A. D. 1869, William A. Stone, by D. Shelton, esq'r, his attorney, filed in open court his declaration in writing in the following words and figures, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi:

In the circuit court. May term, 1869.

William A. Stone, plaintiff, who is a citizen of the State of Mississippi, residing in said district, by attorney, complains of Ivory F. Woodman, administrator with the will annexed of Oliver O. Woodman, deceased, who died leaving a last will and testament, which said Ivory F. Woodman is a citizen and resident of the State of Louisiana, of a plea of trespass on the case on promises; for that, heretofore, in the lifetime of said O. O. Woodman, he made his certain promissory note in writing, bearing date New Orleans, November 1st, 1857, and thereby then and there promised, on the 15th day of February next thereafter, to pay to the order of himself at the office of Brown, Johnston & Co., New Orleans, three thousand dollars, value received, with interest at the rate of eight per cent. per annum from maturity until final pay-
20 ment, and afterwards, to wit, on the said 1st day of November, 1857, said O. O. Woodman endorsed and delivered said note to the plaintiff.

And whereas, also, on the said first day of November, 1857, at New Orleans, the said O. O. Woodman made his certain other promissory note in writing, and thereby then and there promised, on the 15th day of March next thereafter, to pay to the order of himself, at the office of Brown, Johnston & Co., New Orleans, three thousand dollars, value received, with interest at the rate of eight per cent. per annum, from maturity until final payment, and afterwards, to wit, on the said 1st day of November, 1857, said O. O. Woodman endorsed and delivered said last-named note to the plaintiff.

And whereas, also, on the said 1st day of November, 1857, at New Orleans, said O. O. Woodman made his certain other promissory note in writing, and thereby then and there promised, two months after said date, to pay to the order of himself, at the office of Brown, Johnston & Co., New Orleans, three thousand dollars, value received, with interest at the rate of eight per cent. per annum from maturity until final payment, and then and there endorsed and delivered said last-named note to the plaintiff.

21 And whereas, on the said 1st day of November, 1857, at New Orleans, said O. O. Woodman made his certain other promissory note in writing, and thereby then and there promised, on the 15th day of April next thereafter, to pay to the order of himself, at the office of Brown, Johnston & Co., New Orleans, twenty-seven hundred and sixty-one and $\frac{15}{100}$ dollars, value received, with interest at the rate of eight

per cent. per annum from maturity until final payment, and then and there endorsed and delivered said last-named note to plaintiff.

And the plaintiff avers that the said Ivory F. Woodman, though a citizen and resident of the State of Louisiana, is administrator with the will annexed of the estate of said O. O. Woodman, deceased, by letters of administration, cum testamento annexo, to him granted by the probate court of Warren County, in the State of Mississippi, and he is now in said southern district of Mississippi. Yet although often requested, &c., neither said O. O. Woodman in his life-time, nor said defendant, his administrator, has paid said notes, or either of them, or any part of either, to the damage of the plaintiff twenty thousand dollars. Wherefore he sues, &c.

D. SHELTON', *Plff's. Atty.*

22 And thereupon, afterwards, to wit, on the said 26th day of May, A. D. 1869, being a day in the term aforesaid, of the court aforesaid, the following proceeding was had in said cause, to wit:

WILLIAM A. STONE
vs.
IVORY F. WOODMAN, ADMR., with will annexed, &c., of O. O. Woodman. } 803.

This day came into court, in his own proper person, Ivory F. Woodman, the defendant in this cause, and enters his appearance therein as administrator with the will annexed of Oliver O. Woodman, deceased, and then and there confesses and admits an indebtedness of said estate of Oliver O. Woodman, on the notes sued on, amounting to the sum of twenty-one thousand eight hundred and sixty-eight dollars and $\frac{35}{100}$ dollars, and consents that judgment may now be rendered against him for said amount, to bear interest from this date, at the rate of eight per cent. per annum; and thereupon it is considered by the court that the plaintiff do have and recover of and from the said Ivory F. Woodman, administrator with the will annexed of Oliver O. Woodman, said
23 sum of twenty-one thousand eight hundred and sixty-eight dollars and 35 cents, the amount confessed as aforesaid, with interest as aforesaid, to be levied of the goods and chattels, rights and credits, lands and tenements of the said O. O. Woodman, in defendant's hands, to be administered under said will, together with the costs in this behalf expended, to be taxed, &c.

SOUTHERN DISTRICT OF MISSISSIPPI, *ss:*

I, George T. Swann, clerk of the circuit court of the United States for the said district, hereby certify that the foregoing four pages contain a full and true transcript of the process, proceedings, and final judgment of said court in the case of William A. Stone vs. Ivory F. Woodman, admr. with the will annexed of O. O. Woodman, deceased, No. 803, as the same remains of record in said court.

Given under my hand, with the seal of said office hereto affixed, at Jackson, in said district, this 19th day of June, A. D. 1869.

(Signed) [L. S.] GEO. T. SWANN, *Clerk.*

Filed 6th July, 1870.

GEO. T. SWANN, *Clk.*

(Endorsed:) Exhibit A to bill.

24 *Exhibit B to bill of complaint.*

To the Hon. Wade H. Hough, judge of the 13th district court of Louisiana, holding sessions thereof in and for the parish of Madison:

The petition of William A. Stone, a citizen of the State of Mississippi, respectfully represents that the succession of Oliver O. Woodman, which was duly opened in the city of New Orleans, is justly indebted to him in the sum of twenty-one thousand eight hundred and sixty-eight and $\frac{35}{100}$ dollars, as will fully appear by reference to the transcript of judgment hereto annexed and made a part of this petition. That the said O. O. Woodman, in his life-time, in the year 1848, conveyed to Robert W. Burney, of Madison Parish, Louisiana, a joint interest in certain real estate in Madison Parish, Louisiana, described as follows: The undivided half of a tract of land lying and being in the parish of Madison, and State of Louisiana, and containing five hundred and twenty-five acres, more or less, bounded on the east and west sides by the Mississippi River, on the north by the old Hoffman tract, and on the south by the Frederick Smith tract, it being the same tract of land confirmed
25 to one Henry Eaton, and purchased by said Woodman at a sheriff's sale in the case of John Curtis vs. Woodman and Dennis, and, in order to make the sale more productive and valuable, entered to a copartnership with the said Burney, the particulars whereof will more fully appear from the agreement of copartnership, hereto annexed and made a part of this petition. Contemporaneously with said agreement of copartnership, the said Burney made and delivered to said Woodman his certain bond in writing, hereto annexed and made a part hereof, whereby he obliges himself, heirs, administrators, and assigns, to reconvey said interest in said land to the said Woodman, his heirs, executors, and assigns, at the expiration of said copartnership, upon the said Woodman, his heirs, &c., paying to said Burney, &c., the sum of three thousand dollars. Subsequent to the entering into said copartnership, the said Woodman became the owner of other lands in Madison Parish adjacent, to the land afore-described, being lots 14 and 15 and parts of lots 16 and 17, containing five hundred acres, more or less, known as the Mc-
26 Kiernan tracts, which, under the provisions of said agreement of copartnership, he added to the joint stock of said copartnership, subject to the same terms and conditions as controlled the first-named land, and which are more particularly described in additions made by said copartners to their said agreement of copartnership. The said O. O. Woodman died on or about the 31st day of August, 1859, and his succession was duly opened in the city of New Orleans, the place of his residence and domicil, and one Joseph Teckell was duly appointed and qualified as executor of his last will and testament, in the 2d district court of New Orleans, and shortly thereafter he appointed one Ivory F. Woodman his attorney of fact to administer said succession in the purposed absence of said executor from the State of Louisiana. Said Ivory F. Woodman, for the purpose of continuing said copartnership with the said Burney, and divesting the said succession of the title in and to all the copartnership property, and vesting the same in himself, in collusion with the said Burney, procured the said Burney to make application to the second district court of New Orleans to have all the interest of the said succession of O. O. Woodman
27 in and to the land, negroes, and other stock of said copartnership conveyed to the said Burney, the said Burney previously thereto having given the said Ivory F. Woodman an instrument in writing to

reconvey all said interest to said Ivory F. Woodman, and to continue said copartnership with him, the said Ivory F. Woodman, under the same articles and provisions entered into between said O. O. Woodman and said Robert W. Burney. On or about June, 1860, an order was obtained from the said district court, upon a rule, against the said Ivory F. Woodman, as attorney in fact of said executor, to convey all the interest of the succession of the said O. O. Woodman in and to the said copartnership property to the said Burney, and, in pursuance thereof, the said Ivory F. Woodman, as atty. in fact, made a deed of conveyance of all said property to said Burney, but the same was never *was never* accepted by the said Burney, was never delivered to said Burney, and the consideration therein mentioned and specified was not then, nor at any time afterwards, paid to the said I. F. Woodman, nor to
28 said executor, nor in any way inured to the benefit of the said succession of Oliver O. Woodman, deceased. Your petitioner charges that said deed was simulated, procured by collusion between said Burney and I. F. Woodman, as aforesaid, for the purpose aforesaid, and was in defraud of the rights of the creditors and heirs of said succession, and is absolutely void, and has been so regarded and treated by your petitioner in the institution of this suit.

Your petitioner avers that during the continuance of the copartnership between the said O. O. Woodman and Robert W. Burney large sums of money had been paid for and advanced to the R. W. Burney by the said O. O. Woodman, at the special instance and request of the former.

Petitioner alleges that all the claims of the said R. W. Burney, deceased, against the said O. O. Woodman, including the three thousand dollars required to be paid before the reconveyance of the land mentioned in the bond of the said R. W. Burney, and also the sums required for the reconveyance of the other lands added by said O. O. Woodman to the joint stock of said copartnership, have been paid to the said Burney before his decease. The petitioner alleges that the title of all
29 said lands mentioned and described in said articles of copartnership are lawfully and equitably required to be reconveyed to the executor of the said succession of O. O. Woodman, and are justly and equitably liable to the payment of the creditors of the said O. O. Woodman.

Petitioner alleges that no settlement of the copartnership between said O. O. Woodman and Burney has ever been made, and there are still outstanding debts against it.

Your petitioner alleges that the said R. W. Burney departed this life in the spring of 1866, and his succession has been duly opened in the parish of Madison, Louisiana; and Ezra B. Towne, duly appointed and qualified as administrator of his succession, represents that the said Burney left five children as the heirs of his succession: Amanda W., Sarah Lillia, Mathilda T., Anna V., Mary E., and Minnie, two of whom are since married, and three are minors, not represented by the appointment of a tutor.

Wherefore your petitioner prays that the said Ezra B. Towne, admr. as aforesaid, and Amanda McDonough, and John McDonough,
30 and Mary Lillia Felt, and Albert T. Felt, and said minors, by their tutor, when duly appointed, be cited to answer this petition; prays, after due proceedings had, the said defendants be ordered and adjudged to reconvey all the said lands described in this petition and exhibits hereto, as belonging to the said copartnership, to the said Teckell, ex. of the succession of the O. O. Woodman, deceased; prays that

the said defendants be enjoined from selling or making any disposition of said lands before the termination of this suit, as the same are now advertised for sale to pay the personal creditors of the said R. W. Burney, deceased; prays, finally, for general and equitable relief in the premises.

N. D. AND J. T. COLEMAN,
Attys. for Petitioner.

13th district court clerk's office.

STATE OF LOUISIANA,
Parish of Madison:

I hereby certify that the foregoing seven pages contain a true and correct copy of the original petition now on file in this office.

Witness my signature and official seal this 24th day of June, A. D. 1869.

[L. S.] S. S. PRENTISS DANGERFIELD,
Clerk of said Court.

31 WILLIAM A. STONE
vs.
IVORY F. WOODMAN, ADMR., &C. } 803.

Pleas before the honorable Robert A. Hill, district judge of the United States for the district of Mississippi, at a term of the circuit court of the United States for the 5th judicial district, and southern district of Mississippi, begun and held for said district at the court-room in the city of Jackson, in said district, on the 4th Monday of May, in the year of our Lord eighteen hundred and sixty-nine, and in the 93rd year of the Independence of the United States of America.

Be it remembered that heretofore, to wit, on the 26th day of May, A. D. 1869, William A. Stone, by D. Shelton, esqr., his attorney, filed in open court his declaration in writing, in the following words and figures, to wit:

In the circuit court, May term, 1869.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

William A. Stone, plaintiff, who is a citizen of the State of Mississippi, residing in said district, by attorney, complains of Ivory F. Woodman, administrator with the will annexed of Oliver O. Woodman, de-
32 ceased, who died, leaving a last will and testament, which said Ivory F. Woodman is a citizen and resident of the State of Louisiana, of a plea of trespass on the case on promises.

For that, whereas, heretofore, in the life-time of said O. O. Woodman, he made his certain promissory note in writing bearing date New Orleans, November 1st, 1857, and thereby then and there promised, on the 15th day of February next thereafter, to pay to the order of himself, at the office of Brown, Johnston & Co., New Orleans, three thousand dollars, value received, with interest at the rate of eight per cent. per annum from maturity until final payment, and afterwards, to wit, on the said 1st day of November, 1857, said O. O. Woodman endorsed and delivered said note to the plaintiff.

And whereas, also, on the said 1st day of November, 1857, at New Orleans, the said O. O. Woodman made his certain other promissory note in writing, and thereby then and there promised, on the 15th day of March next thereafter, to pay to the order of himself, at the office of Brown, Johnston & Co., New Orleans, three thousand dollars, value received, with interest at the rate of eight per centum per annum
33 from maturity until final payment, and afterwards, to wit, on said 1st day of November, 1857, said O. O. Woodman endorsed and delivered said last-named note to the plaintiff.

And whereas, also, on said 1st day of November, 1857, at New Orleans, said O. O. Woodman made his certain other promissory note in writing, and thereby then and there promised, five months after said date, to pay to the order of himself, at the office of Brown, Johnston & Co., New Orleans, three thousand dollars, value received, with interest at the rate of eight per cent. per annum from maturity until final payment, and then and there endorsed and delivered said last-named note to the plaintiff.

And whereas, also, on the said 1st day of November, 1857, at New Orleans, said O. O. Woodman made his certain other promissory note in writing, and thereby then and there promised, on the 15th day of April next thereafter, to pay to the order of himself, at the office of Brown, Johnston & Co., N. O., twenty-seven hundred and sixty-one and $\frac{15}{100}$ dollars, value received, with interest at the rate of eight per cent. per annum from maturity until final payment, and then and there endorsed
34 and delivered said last-named note to plaintiff.

And the plaintiff avers that said Ivory F. Woodman, though a citizen and resident of the State of Louisiana, is administrator with the will annexed of the estate of said O. O. Woodman, deceased, by letter of administration cum testamento annexo, to him granted by the probate court of Warren County in the State of Mississippi, and he is now is said southern district of Mississippi.

Yet, although often requested, &c., neither said O. O. Woodman in his life-time, nor said defendant, his administrator, has paid said notes or either of them, or any part of either, to the damage of the plaintiff twenty thousand dollars; wherefore he sues.

D. SHELTON, *Plff.'s Atty.*

And thereupon, afterwards, to wit, on the said 26th of May, A. D. 1869, being a day in the term aforesaid of the court aforesaid, the following proceeding was had in said cause, to wit:

WILLIAM A. STONE
vs.
IVORY F. WOODMAN, ADMR. WITH WILL ANNEXED, &c., of O. O. Woodman. } 803.

This day came into court, in his own proper person, Ivory F.
35 Woodman, the defend' in this cause, and enters his appearance therein as administrator with the will annexed of Oliver O. Woodman, deceased, and then and there confesses and admits an indebtedness of said estate of Oliver O. Woodman, on the notes sued on, amounting to the sum of twenty-one thousand eight hundred and sixty-eight and $\frac{35}{100}$ dollars, and consents that judgment may be now rendered against him for said amount, to bear interest from this date at the rate of eight per cent. per annum; and thereupon it is considered by the court that the plaintiff do have and recover of and from the said Ivory F. Woodman, administrator with the will annexed of Oliver O. Wood-

man, said sum of twenty-one thousand eight hundred and sixty-eight dollars and 35 cents, the amount confessed as aforesaid, with interest as aforesaid, to be levied of the goods and chattels, rights and credits, lands and tenements of the said O. O. Woodman, in defendant's hands, to be administered under said will, together with the costs in this behalf expended, to be taxed, &c.

SOUTHERN DISTRICT OF MISSISSIPPI, *ss:*

I, George T. Swann, clerk of the circuit court of the United States for the said district, hereby certify that the foregoing four
36 pages contain a full and true transcript of the process, proceedings and final judgment of said court in the case of William A. Stone vs. Ivory F. Woodman, adm'r with the will annexed of O. O. Woodman, deceased, No. 803, as the same remains of record in said court.

Given under my hand with the seal of said court hereto affixed at Jackson, in said district, this 19th day of June, A. D. 1869.

[L. S.] (Signed) GEO. T. SWANN, *Clerk.*

13th dist. court, clerk's office.

STATE OF LOUISIANA,
Parish of Madison:

I hereby certify that the foregoing six pages contain a true and correct copy of the transcript as filed in suit of William A. Stone vs. Ezra B. Town, adm'r, et al., No. 600 N. S., now in this office.

Witness my signature and official seal this 24th day of June, A. D. 1869.

[L. S.] S. S. PRENTISS DANGERFIELD,
Clerk of said Court.

(Endorsed:) Exhibit B to bill. Filed July 6, 1870. G. T. Swann, clk.

37 *Exhibit C to bill of complaint.*

Thirteenth district court, clerk's office.

STATE OF LOUISIANA,
Parish of Madison:

SUCCESSION OF
ROBERT W. BURNEY, DECD.

Whereas, by an order made by the clerk of said court, on the 15th day of December, A. D. 1866, Ezra B. Towne was appointed administrator of said succession, and has given bond and taken the oath prescribed by law:

Now, therefore, be it known, by these letters, that the said Ezra B. Towne is duly appointed and authorized, and empowered to do and perform all and singular the acts and duties incident upon said appointment.

Witness the signature of the clerk, and the official seal of said court, this 19th day of December, A. D. 1866.

[L S.] F. M. DAWSON, *Clerk.*

13th district court, clerk's office.

STATE OF LOUISIANA,
Parish of Madison:

I certify that the above is a true and correct copy from the original letters on file in this office.

Witness my signature and official seal at Richmond, La., this 4th day of June, A. D. 1867.

[L. S.]

F. M. DAWSON,
Clerk of said Court.

(Endorsed:) Exhibit C to bill N. S. No. 125, chancery. Filed July 6 1870. Geo. T. Swann, clk.

38 *Exhibit D to bill of complaint.*

Thirteenth district court.

STATE OF LOUISIANA,
Parish of Madison:

Know all men by these presents, that Ezra B. Towne as principal, and Gipson C. Bettis and Andrew R. Hynes, security, are held and firmly bound unto the legal heirs, or representatives, of Robert W. Burney, deceased, in the just and full sum of sixty-two thousand seven hundred dollars and —— cents, for the full and complete payment of which sum we hereby bind ourselves and our heirs, executors, or administrators, firmly by these presents, this nineteenth day of December, A. D. 1866.

Thec ondition on the above obligation is such, that, whereas the above-bounden Ezra B. Towne has been appointed administrator of the succession of Robert W. Burney, deceased: Now, if the said Ezra B. Towne shall perform all the duties as administrator of said succession, the above obligation to be null and void; otherwise to be and remain in full force and virtue. In witness whereof we hereunto subscribe our signatures the day and date above written.

E. B. TOWNE.
G. C. BETTIS.
AND. R. HYNES.

Attest:
F. M. DAWSON, *Clk.*

39 Thirteenth district court, clerk's office,

STATE OF LOUISIANA,
Parish of Madison;

I hereby certify that the within bond is a true and correct copy of the original given in the succession of Robert W. Burney, and now on file in this office.

Witness my signature and official seal this the 29th day of June, A. D. 1870.

[L. S.]

S. S. PRENTISS DANGERFIELD,
Clerk of said Court.

(Endorsed:) Exhibit D. Filed July 6, 1870. Geo. T. Swann, cl'k.

Exhibit E to bill of complaint.

For Exhibit "E" referred to, see Exhibit B, pages 24 to 36 inclusive.)

And upon the filing of said bill of complaint and exhibits in said court, a subpœna was issued in this cause for said defendants, which, with endorsements and returns thereon, is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi, sc.:

The President of the United States to the marshal of the southern district of Mississippi, greeting:

40 You are hereby commanded without delay to summon William A. Stone, who is a citizen of the State of Mississippi, to appear before the circuit court of the United States for the southern district of Mississippi, at the city of Jackson, at rules, to be holden in the clerk's office of said court, on the first Monday in August next, to answer a bill in equity exhibited against him by Ezra B. Towne, administrator of Robert W. Burney, dec'd, late of the parish of Madison, State of Louisiana, Amanda McDonough and her husband, John McDonough, Leilla Felt and her husband, Albert T. Felt, and the minors Matilda T. Burney, Anna V. Burney, Mary E. Burney, and Minnie Burney, by their next friend Ezra B. Towne, all of whom are citizens of the State of Louisiana, and unless they shall enter their appearance therein, in the clerk's office aforesaid, on or before the time specified above, the said bill will be taken for confessed. And have then and there this writ, and how you have executed the same.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, and the seal of our said circuit court,
41 this 7th day of July, A. D. 1870, and in the 95th year of the Independence of the United States of America.

[L. S.] GEO. T. SWANN, *Clerk.*

UNITED STATES OF AMERICA,
Southern District of Mississippi:

U. S. MARSHAL'S OFFICE.

I hereby nominate and appoint O. H. Johnston my special deputy, to execute and return the within process according to law.

Witness my hand and seal this 7th day of July, 1870.

E. A. PEYTON, [SEAL.]
U. S. Marshal, Southern District of Mississippi.

In obedience to the within I have this 9 day of July, 1870, serve' personally this spa. in chy. on deft. Stone, by delivering to him a true copy of this writ.

E. A. PEYTON,
U. S. Marshal.
By O. H. JOHNSTON,
S. D., U. S. M.

And on the 4th day of August, A. D. 1870, came the said defendant William A. Stone, by his solicitors, Shelton and Shelton, and filed in the office of the clerk of said court his answer to the bill of complaint herein, which, with the exhibits accompanying the same,
42 are in the words and figures following, to wit:

Answer.

The answer of William A. Stone to the bill of complaint filed by Ezra B. Towne, administrator of Robert Burney, against him, in the United States circuit court for the southern district of Mississippi, sitting in chancery:

This respondent, reserving the benefit of all exceptions to complainant's bill for its many errors, inaccuracies, and insufficiencies, for answer to so much and such parts thereof as he is advised it is material for him to answer, says:

He admits the filing of the declaration and confession of judgment on the law side of this court on the 26th day of May, 1869, as shown by Exhibit A to complainant's bill. This respondent admits that the notes were not filed with the declaration, but they are accurately described therein, and it is not true that they were not exhibited in court at the time said declaration was filed and judgment confessed. It was all done in open court, while in actual session; the notes were in the
43 hands of respondent's lawyer, and were by him exhibited to the court at the time said judgment was confessed. Respondent denies that the omission to file the notes was done for any fraudulent purpose, or is any evidence of a fraudulent design; nor does he admit that the laws of the State of Mississippi required them to be filed. They were retained for future use as originals and to save expenses; they were not required to be filed either by the defendant or by the court.

It is true that said notes had not been probated against the estate of O. O. Woodman. This respondent had held them but a short time, he residing in Copiah County, and the administration being at Vicksburg, but the time for probating them had not expired, and J. F. Woodman, admr. of O. O. Woodman, knew of the existence of said notes, and that they were held by respondent, did not deny the liability of the estate for them, and before the judgment was rendered had, on the application of respondent, agreed to confess the judgment. It was for these reasons and not for any fraudulent or improper purpose that the judgment was taken without probating the notes.

44 Respondent, admitting that the administrator, heirs, and distributees of R. W. Burney are as stated in compl't's bill, denies that the lands in the bill mentioned belong to the estate of R. W. Burney, except to the extent and in the manner stated, alleged, and charged in this respondent's petition, a copy of which is made Exhibit B to compl't's bill, and respondent avers that the statements, allegations, and charges in that petition contained are, as respondent believes, true.

And now respondent, further answering, says that O. O. Woodman and R. W. Burney, planted in partnership from 1848 until O. O. Woodman's death, about August 31st, 1859, and not in 1858, as stated in said bill; that in 1848, about the time of the commencement of the partnership, O. O. Woodman made conveyance of a half interest in the lands they were planting to said Burney, to wit, the lands in compl't's bill mentioned. Simultaneously they made written articles of partnership, and also Burney made and delivered to O. O. Woodman a bond or other written agreement, whereby he bound himself, his heirs, administrators, and assigns, at the expiration of said partnership, upon
45 Woodman, his heirs, &c., paying him $3,000, to reconvey said half-interest to said O. O. Woodman, his heirs, executors, or assigns. Respondent herewith files certified copies of the articles of part-

nership, and said bond or agreement, as Exhibits 1, 2 to this answer, and makes them part of the same. All three of the foregoing documents really constituted the agreement between O. O. Woodman and s'd Burney. Under them the partnership was carried on until the death of O. O. Woodman, the partnership being renewed every three years from the beginning thereof, as provided for in the agreements.

And now respondent shows that, at the time of the death of O. O. Woodman, Brown, Johnston & Co., of New Orleans, La., or of Vicksburg, Mississippi, were holders of the four promissory notes on which s'd judgment was confessed, which notes were secured by mortgage on said land, a copy of which is herewith filed, marked "Exhibit 3," and made part of this answer. Shortly after O. O. Woodman's death and before June, 1860, said Burney, in manner, form, and effect, as alleged
46 in compl't's bill, purchased from Brown, Johnston & Co. said four notes, and became the holder and owner thereof, and (to the extent of said notes) the beneficiary of said mortgage, as alleged, and he continued to be such holder, owner, and beneficiary until about February, 1864. At that date said Burney owed to Ivory F. Woodman and A. H. Bement, merchants in the city of New Orleans, trading under the style of Woodman and Bement, a very large debt, and as a credit thereon, or in payment thereof, he endorsed and delivered said notes to said Woodman and Bement, in said indorsement expressing that he therewith transferred all security for said notes to Woodman and Bement; and afterwards, on the 15th Nov., 1865, Woodman and Bement, for value received, endorsed and delivered said notes to F. O. Woodman, who afterwards endorsed and delivered them to I. Strickland, who afterwards endorsed and delivered them to respondent. The originals are now filed in a suit brought by respondent in Louisiana. Copies of said notes and the endorsements thereon will hereafter be filed, marked "Exhibits 4, 5, 6, 7," and made part of this answer.
47 Respondent admits that he did not receive said notes directly from Brown, Johnston & Co., but from I. Strickland, and he admits that he paid no dollars for the notes; nevertheless, the transfer was upon a valid consideration. Before they were endorsed and assigned to respondent, it was understood and agreed between Strickland and respondent, who is by profession a lawyer, that this respondent was to hold title, and his own name make compromises, give receipts, and acquittances, bring suits, and do every other act necessary in managing the business, receive the money or other valuable things realized; and, from the proceeds, pay all lawyers' fees, expenses, and pay himself, and the balance pay over to said Strickland, and title was accordingly made by endorsement and delivery.

Respondent denies that said notes have ever been paid, satisfied, or discharged by Burney, Woodman, or any other person; and respondent is advised and insists that by Burney's indorsement and transfer of the notes to Woodman and Bement, for value, he is estopped from denying the validity of the notes and mortgage at the time said Burney
48 so assigned them, and from setting up any equity or defence adverse to the right and title so assigned.

As to the allegations in said bill, that his suit in Louisiana was instituted by I. F. Woodman or through his means, and I. F. Woodman employed the counsel to obtain the judgment in this court, respondent denies them; and, in proof of his denial of the latter allegation, he herewith presents the original letter written on the 24th May, 1869, by which he procured his lawyer's services in that case, which, while preparing this answer, has been furnished by that lawyer, marked "Exhibit 9."

Respondent admits that, at the time said judgment was taken, he had it in view to proceed against any property of O. O. Woodman, subject to payment of the debt; and that, having some knowledge of the condition of the tract of land in the bill mentioned, it was contemplated as a probable resource, one to be investigated; but he denies that he lent his name to I. F. Woodman for any purpose whatever, either for a fraudulent or any other purpose.

Respondent is advised that all that portion of the bill which seeks to set up the decree rendered in New Orleans in 1860, the pretended
49 deed of 27 June, 1860, as payment and discharge of the said four notes, is wholly immaterial to this controversy, because they are not properly involved in this suit, but in case brought by respondent in Louisiana, Exhibit B to this bill in this case, and also because if it had then been actually discharged, and yet Burney afterwards assigned it, he would not in equity be allowed to set up such discharge against others claiming through his own assignment, nor would his administrator or heirs be allowed to do it, and respondent claims the full benefit of these principles; neverthless, and without waiving these, he will answer that portion of the bill.

Respondent shows that the first step between I. F. Woodman and R. W. Burney towards accomplishing said events of 1860 was a written agreement signed by Burney, by which I. F. Woodman was to "perfect title" in Burney; then Burney was, "without further consideration," to convey to I. F. Woodman the title which the latter should procure to be made to Burney, the partnership to be continued between I. F. Woodman and Burney just as it had been with O. O. Woodman, Burney to hold his debts and securities against O. O. Woodman, but
50 allowing I. F. Woodman the privilege of paying them as though O. O. Woodman were now living. That document is not dated. It was made before the agreed decree was made in New Orleans in 1860. A copy of it is herewith filed, marked "Exhibit 10." To carry out the purpose of that agreement a petition was filed and an agreed decree was made. The nature of these proceedings respondent does not know. It was, however, not for sale of the property under said mortgage, but the decree was for absolute conveyance of the property by O. O. Woodman's admr. to R. W. Burney, a thing which said admr. had no power to do under the mortgage. With a pretense of executing that decree, and to carry out said *said* agreement, I. F. Woodman, in New Orleans, as attorney of the exr., by act before a notary, executed the written forms purporting to convey the said land to Burney, who was not present, and who was ignorant of its execution; he also had prepared the written form of a reconveyance by Burney to him. He obtained a copy of the notarial act aforesaid, the then purpose being to deliver the one when Burney should execute the other as agreed, all to be consummated in Madison Parish, where the land was, but before anything was
51 done the whole arrangement was abandoned, and said Woodman kept both of said papers. They are herewith filed, marked "10¼" and "10½." The pretended conveyance to Burney was never delivered to him or accepted by him, and was never recorded by Burney or Woodman in said parish, as required by law. Nevertheless the partnership continued on the original agreement between O. O. Woodman and Burney. Respondent is advised that if the proposed arrangement had been carried out the conveyance by Woodman and all the proceedings would have been void.

But respondent is informed and believes that, by the arrangement as agreed on, Woodman and Burney proposed no change as to legal posi-

tion and effect of said four notes and said mortgage then owned by Burney or of any other indebtedness of O. O. Woodman to Burney; that their object for changing the title was only to put I. F. Woodman in O. O. Woodman's shoes in the partnership with Burney. Not a dollar was paid or to be paid by either party; not a dollar was released or to be released by either party. It is not true that thereafter R. W. Burney held or owned or pretended to hold or own the land as his own.

52 Down to the time of Burney's death it was held and worked for partnership purposes. It and the slaves that were on it were sometimes in the immediate possession of Burney, sometimes in that of I. F. Woodman, and sometimes of both, as circumstances made it expedient. Both of these parties fully recognized the partnership down to Burney's death, in proof of which respondent files herewith letters from Burney to I. F. Woodman, recognizing the partnership until Burney's death, Exhibits 11, 12, 13, 14, 15, 16, 17.

It is not true that, by means of said decree or said notarial act of I. F. Woodman or any of the alleged transactions between I. F. Woodman and Burney in 1860, he, Woodman, obtained possession of said four notes. So far as that plan went it occurred in June, 1860. I. F. Woodman did not pay Burney a dollar on it. It would not have been very sagacious in Burney to have released a mortgage of $12,000 or $15,000 on land and slaves ample to pay it and then given I. F. Woodman the benefit of his purchase for nothing.

53 But it is not true that said notes were delivered up to I. F. Woodman in 1860, or that after the events aforesaid Burney considered them discharged. On the contrary, Burney had the notes in Sept., 1863, and then proposed to receive $10,000 part payment of them in the then currency of the country, as shown by his letter to I. F. Woodman filed, marked "17."

The truth is, Burney held those notes until the month of February, 1864, when he transferred them, as before stated, to Woodman and Bement in payment pro tanto of his indebtedness to that firm, for which indebtedness they held an account against him for a still larger amount, and for most of the items of which Woodman and Bement held and still hold written vouchers signed by Burney.

As to the other two mortgage-notes mentioned in complt.'s bill, respondent has no interest in them, and knows nothing as to their payment or non-payment; hopes that complt. will prove that they have been paid; but in reply to a question on that subject, I. F. Woodman says they were never paid by O. O. Woodman, but were transferred by Brown, Johnston, & Co. Of these matters respondent knows nothing.

54 Respondent denies all allegations and charges of fraud, combination, or conspiracy in the bill contained, and says that throughout he has acted in good faith, but with the desire by compromise, (or by legal proceedings to collect the notes, and to that end, if necessary,) to subject the said lands to the payment of them. For that purpose he filed said petition in Louisiana.

Defendant having fully answered, prays to be hence dismissed with his reasonable costs.

WM. A. STONE.

D. SHELTON, *Sol. for Deft.*

UNITED STATES OF AMERICA,
Southern District of Mississippi:

This day personally appeared before me, the undersigned United States commissioner for said districts, who, being duly sworn, on oath says

that the matters and things in the foregoing answer stated as of his own knowledge are true, and those stated as from information of others he believes to be true.

Sworn to and subscribed before me this July 26th, 1870.

W. M. HALEY, [L. S.]
U. S. Commissioner, Southern District of Mississippi.

Filed with Exh. 1 and 2, 3, 9, 10¼, 10½, 11, 12, 13, 14, 15, 16, 17, Aug't 4, 1870.

GEO. T. SWANN, *Clk.*

(Exhibits 4, 5, 6, 7, filed subsequently, to wit: "Filed Nov. 20th, 1872.—GEO. T. SWANN, *Clk.*)

55 *Exhibits* 1 *and* 2, *to ans. of W. A. Stone.*

STATE OF LOUISIANA,
Parish of Madison:

This indenture, act, and agreement, made and entered into this the first day of January, eighteen hundred and forty-eight, by and between Oliver O. Woodman, of Vicksburg, Mississippi, and Robert W. Burney, of Madison Parish, La., witnesseth, that *that* the said parties have entered into a copartnership under the name and style of R. W. Burney & Co., for the purpose of cutting cord-wood for steamboats, &c., and to clear up and cultivate the land as fast as the timber is taken off the land where the wood is cut, the land to be described hereafter.

First. It is understood and agreed between the parties that the said Burney and family is to move on to a place owned jointly, and bounded as follows: On the east and west side by the Mississippi River; on the north by the old Hoffman tract; and the south by the old Frederick Smith tract, now owned or occupied by Nicholson Barnes; the joint tract of land being the same confirmed to one Henry Eaton, and recently purchased by said Woodman at a sheriff sale, in the case of John Curtis vs. Woodman and Dennis, containing five hundred and
56 twenty-four acres, more or less.

Second. It is understood and agreed between the parties that this is to be a joint-stock copartnership; that is, that each is to put his undivided interest in said tract of land in said firm at three thousand dollars each, and their negroes, oxen, farming-utensils, corn, horses, &c., &c., to be described hereafter, and each shall be entitled to one-half the profits, or subject to one-half the loss; the party having the least stock to pay the one having most, eight per cent. interest upon the overplus.

Third. The said Burney is to put on the said place his negro-slaves, as follows: Israel, a good carpenter, 25 years old, at ten hundred dollars; Harriet, his wife, 22 years old, at eight hundred dollars; Owen, 19 years old, at seven hundred dollars; Solomon, 22 years old, at nine hundred dollars; Riley, 9 years old, at three $\frac{50}{100}$ hundred dollars; Jinney, 22 years old, at seven hundred dollars, and her two children; Barnes, 4 years old, at two $\frac{50}{100}$ hundred dollars; Frederick, 2 years old, at one $\frac{50}{100}$ hundred dollars; and Minerva, 19 years old, at six hundred dollars; farming-utensils, two hundred and twenty-nine
57 $\frac{50}{100}$ dollars; and his undivided half of the above tract of land at three thousand dollars, and one hundred and fifty dollars cash, will constitute his present part of the capital stock, making in all eight thousand eight hundred and twenty-nine $\frac{50}{100}$.

Fourth. The said Woodman shall put on the above tract of land his negro-slaves Jack, 35 years old, at seven hundred dollars; George and his wife, (both over 60 years old,) at one hundred and fifty dollars; oxen, carts, corn, and farming-utensils, at three hundred dollars; three promissory-notes for one thousand dollars each, drawn by A. M. Young and C. P. Young, one payable the 1st day of November, 1848, one the 1st March, 1849, one the 1st Nov'r, 1849, and endorsed by the said R. W. Burney, and his undivided half of the above tract of land, being his present capital stock, making in all seven thousand one hundred and fifty dollars. The three notes above are to be invested as soon as practicable in negroes, put on the place, and to remain during the copartnership.

Fifth. It is understood that each party will continue to hold the title to the slaves now furnished, but all those that are bought on joint account to be held as joint property until the expiration of the co-
58 partnership, and then to be valued and be divided equally. Should either purchase negroes with their individual funds such purchases shall go in as so much stock, yet the risk of life and death and the increased value of all children under ten years of age and the decrease in value of all hands over thirty years old shall be mutual, the loss or profits, as the case may be.

Sixth. The said Burney shall have the personal management of said place. He is to cut wood with the present force, or by help hired on joint account. It is expressly understood that all timber that will work into cord-wood is to be worked up clear, and all the lands cleared up and put into cultivation as fast as can be done with the force on the place. It is understood and agreed that neither party shall be under obligation to furnish any more capital than what is specified, but each is at liberty to put on the place any additional force or stock he may think proper, and that all the profits which may arise from cutting wood from year to year shall be invested in negroes and kept on the place during the copartnership.

59 Seventh. It is further understood and agreed that said Burney is to have the privilege of keeping three saddle-horses for his own use free of charge; that Mrs. Mary F. Burney is to have one acre or more of ground for a vegetable garden, the expense of which is to be paid by said Burney; that the plantation and said Woodman's family are to be supplied from it, and no rent for said garden to be charged; and that the said Burney's family is to be supplied from the plantation with such things for his table-use as his family may require free of charge, groceries and provisions to be charged to the joint account.

Eighth. It is further understood and agreed that each party will have joint and equal interest and control of all said property for their mutual benefit for the term of three years, with the privilege of extending it to five years, and they will, as far as practicable, put and keep on said place an equal amount of capital.

Ninth. That the said Burney shall keep a correct daily account of all expenses and disbursements in a book which shall be furnished to said Woodman at least once a month for him to have transferred into regular set of books to be kept by the said Woodman, through which
60 books all transactions shall pass of all moneys received and paid out, and for what.

Tenth. At the end of the copartnership an accurate account of all their business shall be made out by said Woodman and an account taken of all the slaves, stock, farming utensils, crop, &c., and said Woodman shall have the privilege to take back from the said Burney the undi-

vided half of said tract of land by paying said Burney three thousand dollars cash, and one-half the value of all substantial improvements, such as good negro quarters, mill-house, gin-house, cisterns, cribs, &c., the fencing and putting into cultivation of land excepted. The stock, farming-utensils, crops, &c., to be equally divided, and the difference in the accounts or interests to be paid in cash, and if the parties can't agree in the division, they shall call in arbitration at the close of said copartnership.

Eleventh. The said Burney receives the three notes of one thousand dollars each as stock from the said Woodman, which goes in as that much stock against his negroes to that amount, and that Burney is to put his services for the first year as an offset of the interest the
61 three notes ought to bear. Should said Burney be unable at any time to attend to the duties of the place, in that case, if a manager should be necessary, he is to be employed at the expense of the firm. After the first year if said Burney can attend to the duties of manager, he shall be allowed a fair compensation for his services. All expenses of the plantation to be borne equally by both parties.

Twelfth. It is further understood, that should said Woodman wish or conclude to sell his undivided half of said tracts of land, *that* he shall first give the said Burney the refusal of it before offering it to any other person. Though at this time it is the calculation of the parties that the said Woodman will want Burney's half, the said Woodman is not to sell his half of said property during the copartnership; the said parties agree to take back at the expiration of said copartnership all slaves they not put in, between the *years* of ten and thirty old, at the same price; all slave children under ten years of age, and old ones, to be valued and divided as they may have increased or diminished in value. Should there be any negro women with children which are joint
62 property at the expiration of this copartnership, either party getting them are to take them at valuation, as children under ten years old should not be separated from the mother. The increase of the negroes of Burney now put in is to be his, at their valuation, at the end of the copartnership.

Thus done and signed in the presence of the witnesses, the day and date above.

(The note in regard to erasures and interlineations is omitted.)

O. O. WOODMAN. [SEAL.]
R. W. BURNEY.

Witnesses:
CHS. T. MANN.
C. P. YOUNG.

On the first day of November, 1848, O. O. Woodman put upon the place a negro boy, Sam, at the price of seven hundred and fifty dollars, as a part of the proceeds of the notes put in by him as a part of his stock, the said negro to be subject to the same conditions as the others originally put in.

(Signed) O. O. WOODMAN.
R. W. BURNEY.

On the first day of April, 1849, O. O. Woodman put upon the place a negro woman, Harriet, and two children, named Bill and Edmonia, at the price of eight hundred dollars, as a part of the proceeds of
63 the notes put in by him as a part of his stock, the said negroes to be subject to the same conditions as the others originally put

in. Also the amounts to be allowed R. W. Burney for services, and the mutual interest account is balanced and paid to the first day of Jany., 1850.

(Signed) O. O. WOODMAN.
R. W. BURNEY.

O. O. Woodman, on the 1st of Febry., 1851, put in the tract of land, known as the McKernion tract, at the sum of three thousand dollars, subject to the same conditions as the original land put in by him, also the negro boy Pool, for six hundred dollars, and Little Billy Muggins for three hundred dollars, and the boy Isaac in place of boy Sam withdrawn.

(Signed) O. O. WOODMAN.
R. W. BURNEY.

The copartnership existing between O. O. Woodman and R. W. Burney, under the style and firm of R. W. Burney & Co., will continue by mutual consent until the first of January, A. D. 1854, which expired on the first of January, 1853, on same terms as heretofore.

Vicksburg, May 14, 1853.

(Signed) O. O. WOODMAN. [SEAL.]
R. W. BURNEY. [SEAL.]

Attest:
D. A. LACY.

The above copartnership is to continue until 1st Jany., 1858,
64 subject to all the conditions of the original agreement.
May 5th, 1855.

(Signed) O. O. WOODMAN. [SEAL.]
R. W. BURNEY. [SEAL.]

JOHN GREEN.
D. A. LACY.

On the 1st day of Jany., 1852, R. W. Burney put in on the place the following negroes, subject to the same conditions as negroes originally put in, named:

Matilda,	aged	40	years,	at	$500
Harriet,	"	26	"	"	650
Henry,	"	12	"	"	500
Susan,	"	8	"	"	300
Ann,	"	4	"	"	200
Julia,	"	4	"	"	200
Lucy,	aged	24	years,	at	$650
Percilla,	"	16	"	"	500
Aleck,	"	10	"	"	450
Mary,	"	6	"	"	250
Nora,	"	2	"	"	150
Matilda, No. 2,	1	"	"		150
Forty-five hundred dollars					$4,500
Adeline,	20				650
Genl. Jackson,	2				150
Fifty-three hundred dollars					$5,300

(Signed) O. O. WOODMAN.
R. W. BURNEY.

I, James Graham, a notary public in and for the city and parish of New Orleans, State of Louisiana, duly commissioned and qualified,
65 do hereby certify that the foregoing is a true copy of certain articles of agreement entered into between O. O. Woodman and Robert W. Burney, on the first day of January, eighteen hundred and forty-eight.

In faith whereof I grant these presents, under my signature and the impress of my seal, at my office in New Orleans, on this the sixteenth day of November, in the year of our Lord one thousand eight hundred and fifty-seven.

[L. S.] (Sgd.) JAS. GRAHAM, *Not. Pub.*

Know all men by these presents that I, Robert W. Burney, of the parish of Madison and State of Louisiana, am held and firmly bound unto Oliver O. Woodman, of the city of Vicksburg and State of Mississippi, in the penal sum of six thousand dollars, good and lawful money, to be paid to the said Oliver O. Woodman or his certain attorney, his executors, administrators, or assigns. For which payment well and truly to be made I bind myself, my heirs, executors, and administrators, firmly by these presents. Sealed with my seal, dated the 29th day of April, A. D. 1848.

66 The condition of the above obligation and bond is such, that whereas the above-bound R. W. Burney has this day purchased of the said Oliver O. Woodman the undivided half of a tract or parcel of land lying and being in the parish of Madison, and State of Louisiana, containing five hundred and twenty-five acres (525) more or less, and bounded on the east and west side by the Mississippi River, on the north by the old Hoffman tract, and on the south by the Frederick Smith tract, it being the same tract of land of which the above-bound Robert W. Burney and the said O. O. Woodman are the joint owners and occupants under certain articles of agreement for the term of three years, with the privilege of extending the same to five years, and more fully described by a deed from said Woodman to said Burney, of even date with foregoing obligation, but said conveyance from said Woodman to said Burney is made upon the express condition and understanding that the said Burney, his heirs, executors, administrators, or assigns, shall reconvey to said Woodman, his heirs, executors, or administrators, or assigns, the said undivided half of said tract or parcel of land at the expiration of the said copartnership hereinbefore mentioned
67 upon the condition, hereinafter stated. Now, if the said Robert W. Burney, his heirs, executors, administrators, or assigns, shall, at the expiration of said copartnership, within three calender months thereafter, by a good, proper, and sufficient deed of conveyance, reconvey to the said Oliver O. Woodman, or to his heirs, executors, administrators, or assigns, all that undivided half of the said tract or parcel of land this day conveyed by said Woodman to said Burney, upon the said Woodman, his heirs, executors, administrators, or assigns, paying or securing to be paid, to the satisfaction of the said Burney, his heirs, executors, administrators, or assigns, at the end of the copartnership, the sum of three thousand dollars, ($3,000,) then and in that case this obligation to be null and void, otherwise to remain in full force and virtue. Done and signed in the present of witnesses the day and date above written.

(Signed) R. W. BURNEY. [SEAL.

Signed, sealed, and delivered in presence of—

N. G. BRISON, *Comr. of La.*

I, James Graham, a notary public in and for the city and parish of New Orleans, State of Louisiana, duly commissioned and qualified, do hereby certify that *that* the foregoing is a true copy of a bond
68 subscribed by Robert W. Burney in favor of O. O. Woodman, on the twenty-ninth day of April, eighteen hundred and forty-eight.

In faith whereof I grant these presents under my signature and the impress of my seal of office, at New Orleans, on this sixteenth day of November, anno Domini eighteen hundred and fifty-seven.

[S.] (Sigd.) JAS. GRAHAM,
Not. Pub.

STATE OF LOUISIANA,
Parish of Orleans:

I, James Graham, a notary public in and for this parish and city of New Orleans, duly commissioned and qualified, do certify the above and foregoing as being a true and correct copy of certain instruments in writing annexed to an act of mortgage by Oliver O. Woodman to Brown, Johnston & Co., executed before me on the sixteenth day of November, A. D. 1857, and extant in my notarial records.

In faith whereof I hereunto subscribe these presents under my official capacity, and affix my notarial seal at New Orleans, on this first day of August, one thousand eight hundred and seventy.

[L. S.] JAS. GRAHAM,
Not. Pub.

[Int. rev. stamp.]

STATE OF LOUISIANA,
Office of Secretary of State:

69 I hereby certify that Jas. Graham is, and was at the date of the annexed instrument, notary public in and for the parish of Orleans in said State, and his attestation hereof is in accordance with law.

Given under my hand and the seal of the State this second day of August, 1870, and of the Independence of the United States of America the ninety-fifth.

[L. S.] GEO. E. BOVEE,
Secretary of State.

(Endorsed:) Exhibits 1 and 2 to ans. of W. A. Stone. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit 3 to answer of W. A. Stone.

STATE OF LOUISIANA,
Parish and City of New Orleans:

Be it known that on this day, before James Graham, a notary public in and for the city and parish of New Orleans, State of Louisiana aforesaid, duly commissioned and qualified, and in the presence of the witness hereinafter named and undersigned, personally came and appeared Oliver O. Woodman, of the State of Mississippi, who declared that he is justly and truly indebted unto Messrs. Brown, Johnston & Co., a banking firm of this city, in the sum of seventeen thousand seven
70 hundred and sixty-one dollars and fifteen cents, ($17,761$\frac{15}{100}$,) lawful money of the United States, in liquidation and settlement of

which he has given his six several promissory notes, drawn to the order of and endorsed by himself, dated the first day of November, in the year one thousand eight hundred and fifty-seven, and made payable for the amounts as follows, to wit: One for the sum of three thousand dollars, on the fifteenth day of February next; one for the sum of three thousand dollars, on the twenty-second day of February next; one for the sum of three thousand dollars, at four months after date; one for the sum three thousand dollars, on the fifteenth day of March next; one for the sum of three thousand dollars at five months after date, and one for the sum of two thousand seven hundred and sixty-one $\frac{15}{100}$ dollars on the fifteenth day of April next, all bearing interest from and after maturity if not then paid, at the rate of eight per cent. per annum, until final payment, all which said notes are made payable at the office in this city of the said Brown, Johnston & Co., which said notes, after having been paraphed by me, notary, to identify them with this act, were
71 delivered to Shepard Brown, one of the said firm of Brown, Johnston & Co., who, in his said capacity as such, hereby acknowledges the receipt thereof.

Now, in order to secure the payment of said promissory notes at maturity, the said Oliver O. Woodman moreover declared that he does by these presents specially mortgage, affect, and hypothecate unto the said firm of Brown, Johnston & Co., their and each of their heirs and assigns, and unto each other person or persons as may eventually be the holder or holders of said notes or either of them, all and singular the rights, title, and interests of him, the said Oliver O. Woodman, of, in, and to the following-described real estate and slaves, viz:

1st. A certain tract of land, together with the improvements thereon and the appurtenances thereunto belonging, situate in the parish of Madison, in this State. Bounded on the east and west sides by the Mississippi River, and on the north side by the old Hoffman tract, and on the south side by the old Frederick Smith tract now or formerly owned or occupied by Nicholson Barnes, said tract of land being the same confirmed to one Henry Eaton and subsequently purchased
72 by said Woodman at sheriff's sale in the case of John Curtis vs. Woodman and Dennis, and containing five hundred and twenty-four acres of land, more or less.

2nd. A certain tract of land, together with improvements thereon and the appurtenances thereunto belonging, situate in the said parish of Madison, the same being known and designated as the McKernion tract, and containing about five hundred acres, more or less.

3rd. And the following named and described slaves for life, to wit, Jack, aged forty-five years; Harriet and her two children; Bill and Edmund Poole, aged forty-six years; Little Billy Muggins, aged about thirty-six years.

And the said Woodman hereby binds himself and his heirs not to alienate, deteriorate, or encumber his interest in said property to the prejudice of this mortgage, which is hereby accepted by the said Shepard Brown, who this effects is also present representing his said firm Brown, Johnston & Co.

Said tracts of land form the plantation in the said parish of Madison, (in which said slaves are employed and to which they are at-
73 tached,) which is cultivated by said Woodman, and is free from encumbrances, in his name, with the exception of those arising out of his articles of copartnership with the said Robert W. Burney, bearing date the first day of January, A. D. one thousand eight hundred and forty-eight; a duly certified copy of which, with the renewal thereof

appended thereto, and the several memoranda written thereon, and also a duly-certified copy of said bond executed by said Burney in favor of said Woodman, dated the twenty-seventh day of April, A. D. one thousand eight hundred and forty-eight, and annexed in the margin hereof for reference.

In consideration of which declaration last above written, the said mortgagees hereby dispense with the production of a certificate from the recorder of said parish of Madison, to show the mortgages, if any, which exist against real estate and slaves in the name of said mortgagor, as is otherwise required by article three thousand three hundred and twenty-eight of the civil code of the State.

And it is furthermore understood and agreed by and between the parties hereto, that, in case the said six promissory notes, or any of them, shall, with the interest that shall have accrued thereon, remain
74 due and unpaid on the first day of November, one thousand eight hundred and fifty-eight, that then, but not before that day, the said mortgagees, or any other holder or holders of said promissory notes, or any of them, are hereby authorized to cause the interest of said mortgagor in the property hereinbefore described and herein specially mortgaged to be seized and sold under exec'tory process issued out of any competent court. The said Woodman hereby waiving the formality of appraisement prescribed by law on property so sold, granting the privilege of empowering the sheriff to sell the same for cash after the usual and legal publications for whatever amount it may bring, and confessing judgment for full amount of said notes, or such of them as may remain unpaid as aforesaid in capital and interest, together with all costs, charges, lawyers' fees, not exceeding five per cent., and other expenses whatsoever.

Thus done and passed in my office, in said city of New Orleans, in the presence of Messrs. Hugh Madden and Andrew Hero, jr., witnesses of lawful age and domiciliated in this city, who have hereunto signed their names together with the said parties and me, the said notary,
75 on this the sixteenth day of November, in the year of our Lord one thousand eight hundred and fifty-seven.

(Original signed) O. O. WOODMAN.
SHEPARD BROWN.
HUGH MADDEN.
ANDREW HERO, JR.
JAS. GRAHAM,
Not. Pub.

And which mortgage is duly recorded in said parish of Madison in Record-Book D, folios 302 & 303, on this 23rd day of November, A. D. 1857.

I certify the foregoing to be a true copy of the original act on file and of record in my office.

New Orleans, January 15, 1869.

J. W. GRAHAM, *Not. Pub.*

STATE OF LOUISIANA,
Parish of Madison:

I, Alexander V. Brown, recorder in and for said parish of Madison, do hereby certify that the foregoing copy of mortgage is duly re-inscribed in Conventional Mortgage Book "F," pages 316, 317, and 318.

Witness my signature and official this 23rd day of November, A. D. 1869.

A. V. BROWN, *Recorder*,
By JOSEPH A. HEBERT, *D'p'ty.*

(Endorsed:) Exhibit "3" to answer. Filed Aug. 4, 1870. Geo. T. Swann, clk.

76 *Exhibit No. 4 to answer of W. A. Stone.*

$3,000.] NEW ORLEANS, *November 1st*, 1857.

On 15th day of February next after date I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., three thousand dollars, value received, with interest at the rate of eight per cent. per annum from maturity until final payment.

O. O. WOODMAN.

(Written across the face:)
Ne varietur.
New Orleans, Nov. 16, 1857.

JAMES GRAHAM, *Not. Pub.*

(Endorsed:) O. O. WOODMAN.

NEW ORLEANS, *Nov.* 18, 1857.—Received on within note two hundred and nine dollars.
$209.

BROWN, JOHNSTON & CO.,
Per MIERS AND FISHER.

Transfer order Woodman and Bement, with securities, value received.
R. W. BURNEY.

NOV. 15, 1865.—Pay to the order of F. O. Woodman, for value received.
WOODMAN AND BEMENT.

Pay I. Strickland or b'arrer, value received. June 19, '66.
F. O. WOODMAN.

I transfer the within to William A. Stone.
ISAAC STRICKLAND.

77 *Exhibit No. 5 to answer of W. A. Stone.*

$2,761$\frac{15}{100}$.] NEW ORLEANS, *November 1st*, 1857.

On 15th day of April after date I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., twenty-seven hundred and sixty-one $\frac{15}{100}$ dollars, value received, with interest at the rate of eight per cent. per annum from maturity until final payment.

O. O. WOODMAN.

(Written across the face:)
Ne varietur.
New Orleans, No. 16, 1857.

JAS. GRAHAM, *Not. Pub.*

(Endorsed:) O. O. WOODMAN.

Transfer order of Woodman and Bement, with securities, value received.
R. W. BURNEY.

Nov. 15, 1865.—Pay the order of F. O. Woodman, for value received.
WOODMAN AND BEMENT.

Pay I. Strickland or b'arrer, value received. June 19, 1866.
F. O. WOODMAN.

I transfer the within to W. A. Stone.
ISAAC STRICKLAND.

78 *Exhibit No. 6 to answer of W. A. Stone.*

$3,000.] NEW ORLEANS, *November 1st*, 1857.

On 15th day of March next after date I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., three thousand dollars, value received, with interest at the rate of eight per cent. per annum from maturity until final payment.
O. O. WOODMAN.

(Written across the face:)
Ne varietur.
New Orleans, Nov. 16, 1857.
JAS. GRAHAM, *Not. Pub.*

(Endorsed:) O. O. WOODMAN.

Transfer order of Woodman and Bement, with securities, value rec'd.
R. W. BURNEY.

Nov. 15, 1865.—Pay the order of F. O. Woodman, for value rec'd.
WOODMAN AND BEMENT.

June 19, 1866.—Pay I. Strickland—(balance of this indorsement illegible—Clk.)
F. O. WOODMAN.

I transfer the within to W. A. Stone.
ISAAC STRICKLAND.

79 *Exhibit No. 7 to answer of W. A. Stone.*

$3,000.] NEW ORLEANS, *November 1st*, 1857.

Five months after date I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., three thousand dollars, value received, with interest at the rate of eight per cent. per annum, from maturity until final payment.
O. O. WOODMAN.

(Written across the face:)
Ne varietur.
New Orleans, Nov. 16, 1857.
JAS. GRAHAM,
Not. Pub.

(Endorsed:) O. O. WOODMAN.

Transfer to order of Woodman and Bement, with securities, value rec'd.

R. W. BURNEY.

Nov. 15, 1865.—Pay the order of F. O. Woodman for value rec'd.
WOODMAN AND BEMENT.

Pay I. Strickland or b'arrer, value received. June 19, '66.
F. O. WOODMAN.

I transfer the within to W. A. Stone.
ISAAC STRICKLAND.

Exhibit No. 9 to answer of W. A. Stone.

HAZLEHURST, *May 24th*, 1869.

D. SHELTON, Esq.:

DEAR SIR: Mr. Woodman once promised me to confess judgment on the enclosed notes in the U. S. court in my favor. I understand
80 he now is in Jackson. I wish you would find him and have the judgment forthwith. You are hereby duly authorized in my name to act as though I were present. With my kind regards to the family, I am your friend and obt. servt.,

WM. A. STONE.

(Endorsed:) Exhibit 9. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit No. 10 to answer of W. A. Stone.

Whereas it is deemed advisable for me to apply for an order of court to perfect the title of plantation and negroes now in my possession under contract and agreement with the late O. O. Woodman, thereby saving expense of public sale in case the order is given, and the executor perfects the title in me, I agree, without further consideration, to convey the same title made me by the executor to I. F. Woodman, and continuing the copartnership with I. F. Woodman in the same manner as I have heretofore with O. O. Woodman, I holding the same security for the amt. due me from O. O. Woodman, as before his death, allowing I. F. Woodman the privilege of paying the same as though O. O. Woodman were now living.

R. W. BURNEY. [SEAL.]

[Int. rev. stamp.]

81 (Endorsed:) Exhibit 10. Agreement of 1860, between I. F. Woodman and R. W. Barney. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit No. 10¼ to answer of W. A. Stone.

STATE OF LOUISIANA,
Parish and City of New Orleans:

Be it known that on this twenty-seventh day of June, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States of America the eighty-fourth, before me, James Graham, a notary public in and for the parish and city of New Orleans,

State of Louisiana, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Ivory Fenderson Woodman, of this city, herein acting in his capacity as the special agent and attorney in fact of Joseph Tickell, also of this city, the testamentary executor of the last will of Oliver O. Woodman, late of this city, deceased, as per the power of attorney in the premises, executed by the said Tickell in his said capacity, in favor of the said appearer, by an act under private signa-
82 ture bearing date the fourteenth day of November, 1859, and which act was recorded and deposited in my office on the twenty-eighth day of November, 1859, who declared that in obedience to an order of the honorable the second district court of New Orleans, rendered on the eighteenth day of June, 1860, in a rule in the matter of R. W. Burney vs. the said succession, and for and in consideration of the price and sum of thirty-eight thousand two hundred and sixteen $\frac{40}{100}$ dollars to him in hand paid by Robert W. Burney, of the parish of Madison, in this State, the receipt whereof is hereby acknowledged, he, the said Ivory Fenderson Woodman, does by these presents, in his said capacity, grant, bargain, sell, convey, transfer, assign, and set over unto the said Robert W. Burney, without any warranty except against the acts and deeds of the said Oliver O. Woodman and his heirs and executors, all and singular the rights, title, interest, share, property, claim, and demand of every nature and kind whatsoever of him, the said deceased, in and to the plantation, lands, and slaves, together with the buildings, stock, utensils, furniture, and appurtenances there-
83 unto belonging, situate in the said parish of Madison, the same being owned jointly, and for one undivided half part and interest each by the said Burney and the said deceased, the said lands and slaves being designated and described as follows, to wit:

Real estate.—A certain tract of land situate in said parish of Madison, bounded on the east and west sides by the Mississippi River, on the north side by the old Hoffman tract, and on the south side by the old Frederick Smith tract, now or formerly owned or occupied by Nicholas Barnes, containing five hundred and twenty-four acres, more or less. Also, another tract of land in the same parish, the same being known and designated as the McKernion tract, containing about five hundred acres, more or less, together with the buildings and improvements thereon, and the rights, ways, privileges thereunto belonging. Also any other lands in which the said deceased and the said Burney are jointly interested in the said parish.

Slaves.—Jack, aged 48 years; Harriet and her two children, Bill and Edmund; Poole, aged 49; Little Billy Muggins, aged 39; Abraham, aged 38; Dolly, 36; Beller, 15; Milly, 36; Aleck, 7; and Elizabeth,
84 5; together with such other slaves in the said parish as are the joint and undivided property of said deceased and the said Burney, and the natural increase of the whole of the said slaves.

To have and to hold the said property and appurtenances unto the said purchaser, his heirs and assigns forever.

And the said vendor hereby binds the said succession and its heirs, forever to warrant and defend the property and appurtenances herein conveyed against all legal claims and demands whatever, arising from their own acts and deeds, but against none others. The said vendor moreover transfers unto said purchaser all the rights and actions of warranty to which the said succession is entitled, against all former proprietors of the property herein conveyed, subrogating said purchaser to

the said rights and actions, to be by him enjoyed and exercised in the same manner as they might have been by the said vendor.

A certificate from the recorder of the said parish of Madison, showing the mortgages, if any, which exist against said property in the name of the said deceased Oliver O. Woodman, is hereby dispensed with by the said parties.

85 Thus done and passed in my office at New Orleans, aforesaid, in the presence of Daniel M. Heard and Andrew Hero, jr., witnesses, both of this city, who hereunto sign their names with the parties and me, the said notary.

(Original signed.)

IVORY F. WOODMAN.
DAN'L M. HEARD.
ANDREW HERO, JR.
JAS. GRAHAM,
Not. Pub.

A true copy:

JAS. GRAHAM,
Not. Pub.

(Endorsed:) Exhibit 10¼. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit 10½ *to answer of W. A. Stone.*

STATE OF LOUISIANA,
Parish of Madison:

Be it known that, on this day of , in the year of our Lord one thousand eight hundred and sixty, and of the Independence of the United States of Americe the eighty , before me, a notary public in and for the parish of Madison, and State of Louisiana, duly commissioned and qualified, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared Robert W. Burney, of this parish, who declared that for the consideration

86 and on the terms and conditions hereinafter expressed, he does by these presents grant, bargain, sell, convey, transfer, assign, and set over, with all legal warranties, unto Ivory Fenderson Woodman, of the city of New Orleans, parish of Orleans, in this State, here present, accepting and purchasing for himself, his heirs and assigns, and acknowledging delivery and possession thereof, a certain plantation, together with all the buildings and improvements thereon, and the rights, ways, privileges, and appurtenances thereunto belonging, or in any wise appertaining, situate in this parish; being the same originally owned by the late Oliver O. Woodman, deceased, and consisting of the following described real estate and slaves, to wit: Real es'ate: A certain tract of land situate in this parish, bounded on the east and west sides by the Mississippi River; on the north side by the old Hoffman tract, and on the south side by the old Frederick Smith tract, now or formerly occupied by Nicholson Barnes, containing five hundred and twenty-four acres more or less. Also, another tract of land situate in this

87 parish, the same being known and designated as the McKernion tract, and containing about five hundred acres, more or less. Slaves: Jack, aged 48 years; Harriet and her two children, Bill and Edmund; Poole, aged 49 years; Little Billy Muggins, aged about 39 years; Abraham, aged about 38 years; Dolly, aged about 36 years; Beller, aged about 15 years; Milly, aged about 36 years; Aleck, aged about 7

years; Elizabeth, aged about 3 years; also, all or any lands situate in this parish in which the said deceased Oliver O. Woodman and the said vendor are jointly interested. To have and to hold the said land, slaves, &c., unto the said purchaser, his heirs and assigns forever. And the said vendor hereby binds himself and his heirs, forever to warrant and defend the property and appurtenances herein conveyed against all legal claims and demands whatever. The said vendor, moreover, transfers unto said purchaser all the rights and actions of warranty to which he himself is entitled, against all the former proprietors of the lands, slaves, &c., herein conveyed, subrogating said purchaser to the said rights and actions, to be by him enjoyed and exercised in the same manner
88 as they might have been by the said vendor himself. This sale is made and accepted for and in consideration of the total price and sum of

And now to these presents personally came and appeared Madam , of lawful age, the wife of the said Robert W. Burney, who, after having taken cognizance of the foregoing act, which I, the said notary, carefully read and explained to her, declared and said that she approves and ratifies the same, and that it is her wish and intention to release, in favor of the said Woodman, the lands, slaves, &c., herein described from the matrimonial, dotal, and paraphernal, and other rights, and from any claims, mortgages, or privileges to which she is or may be entitled, whether by virtue of her marriage with her said husband or otherwise. Whereupon I, the said notary, did inform the said Mrs. Burney, apart and out of the presence and hearing of her husband, that by the laws of this State the wife has a legal mortgage on the property her husband: First. For the restitution of her dowry and for the re-investment of the dotal property sold by her hus-
89 band, and which she brought in marriage, reckoning from the celebration of the marriage. Secondly. For the restitution and re-investment of the dotal property by her acquired since marriage, whether by succession or donation, from the day the succession was opened or the donation perfected. Thirdly. For nuptial presents. Fourthly. For debts by her contracted with her husband; and fifthly, for the amount of her paraphernal property alienated by her and received by her husband, or otherwise disposed of for his individual interest. That in making her intended renunciation she would deprive herself irrevocably and forever of all rights of reclamation against the lands, slaves, &c., herein described, whether under mortgage, privilege, or otherwise.

And the said Mrs. Burney did thereupon declare unto me, notary, that she was fully aware of and acquainted with the nature and extent of the matrimonial, dotal, paraphernal and other rights and privileges thus secured to her by law, on the property of her said husband, and that she nevertheless did persist in her intention of re-
90 nouncing, and does formally renounce, not only all the rights, claims, and privileges herein before enumerated and described, but all others, of any nature and kind whatever, to which she is or may be entitled by any laws now or heretofore in force in the State of Louisiana.

And the said Robert W. Burney, being now present, aiding and authorizing the said Mrs. Burney in the execution of these presents, she, the said Mrs. Burney, did again declare that she did and does hereby make a formal renunciation and relinquishment of all her said matrimonial, dotal, paraphernal, and other rights, claims, and privileges, in

favor of the said Woodman, binding herself and her heirs at all times to sustain and acknowledge the validity of this renunciation.

Thus done and passed in my office, at , in the presence of and , witnesses, both of this city, who hereunto sign their names with the parties, and me, the said notary, the day and date aforesaid.

(Endorsed:) Exhibit 10½. Filed Aug. 4, 1870. Geo. T. Swann, clk.

91 *Exhibit No.* 11 *to answer of W. A. Stone.*

VICKSBURG, *June* 24, '62.

DEAR WOODMAN: Yours 20th inst. to hand; contents noted. Come in as soon as possible. The negroes in the neighborhood *is* run'ing of' considerable; 2 of Col. Town's, all of G. W. Groves' but 5, little and big, 5 of Dr. White's, and 16 of Brown and Johnston's; none of mine gone yet.

I want you to come in and advise some plans about what best to be done under the circumstances and best to be done. Try and get the salt and coffee, &c. All well and send love to Mrs. W. & Corrie. Come over as soon as possible.

Yours, truly,

R. W. BURNEY,

(Endorsed:) Exhibit No. 11. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit No. 12 *to answer of W. A. Stone.*

MORTON, *July* 15*th*, 1863.

DEAR WOODMAN: I would be glad, indeed, you could come up and see me, or we meet at the place and consult as to the best for the future.

I am at a loss to know what is best at present. My present
92 notion is to move all my family to the place and there remain as long as possible, and I think it best, as so many *is* now running east, it will make it bad in many respects. I am very confident the negroes will not run away and go to the Federal Army. Let me hear from you at your earliest convenience. Eller and Bob quite sick, or would go down.

I am yours, truly,

R. W. BURNEY.

P. S.—Bring your family up here and we will advise as to the cheapest and best course.

(Endorsed:) Exhibit 12. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit No. 13 *to answer of W. A. Stone.*

MORTON, *March* 9*th*, 1864.

DEAR WOODMAN: I send you a letter left here a few days ago. I hope you will be able to get me some 1,000 to 1,200 lbs. bacon and send over, as I can't get it here. I had to detain Pool one day to haul me one load corn. I was entirely . Old Nullers B. Smith would not let Pool have any corn. I would like very much you would come over here

before I go over to Ala. Have you seen the currency and tax
93 bill? All $100 bills must be funded by 1st April, and less denominations taxed, if not funded in 4 % bonds to run 20 years, taxed 33⅓. I am a loss to know what to do. Come over. I will wr*ight* until Sunday or Monday. Pool will tell you the amount of damages done at the place, and save writing it.

Yours, truly,

R. W. BURNEY.

Try and send me some meat by Isr*ieal*. Can't you go over to Ala.? The R. R. is building up and the telegraph is up and working through to Meridian from this place. I am in hopes that the Yankees will not return to this section again.

(Endorsed:) Exhibit 13. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit No. 14 *to answer of W. A. Stone.*

MORTON, *Oct. 10th*, 1864.

DEAR WOODMAN: Billy goes over again; he wants a mule or two to hall up corn and plow up a wheat-patch &c. Owen got home and is sick, and so is Rufus, and not fit for anything. I put Rufus and Bochars out at a tan-yard for the present, until the Government *seases* pressing. Rufus is not fit for anything. As soon as the Govern-
93 ment is through with their pressing I will send them back to finish your cotton arrangements. They will make a little leather for shoes, &c. Write me by Billy what time you will be in Jackson; I want to see you and have a talk about things, &c. I would have paid Owen's jail-fees, but did not have the money at the depot. I will put one the women at the place to weaving soon; they must learn, and can't younger.

I want you to go with me to Mount Pleasant as soon as you can. I received another letter from Judge L., and all is right and the way open.

When Mrs. Woodman gets well enough, bring her over here; it's a he'lthy place, and would be glad to have here and Clar*rer*.

I think you can make it pay to go up to Mount Pleasant. I can go any time. All send their kindest regards to you and all. Accept the same.

I am yours, truly,

R. W. BURNEY.

(Endorsed:) Exhibit 14. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit No. 15 *to answer of W. A. Stone.*

95 DEAR WOODMAN: I find it impossible to get any corn for stock, and must go out. Do the best you can with the stock, and send the boys out as soon as possible. I must go out. Bill will tell you about the meal and corn &c.

I will come back as soon as you come out. I am out of clothing and must go. Write me at Morton.

I am yours truly,

R. W. BURNEY.

Sept. 18th, 1862.

(Endorsed:) Exhibit 15. Filed Aug. 4, 1870. Geo. T. Swann, clk.

Exhibit No. 16 *to answer of W. A. Stone.*

MORTON, *June 26th*, 1865.

DEAR WOODMAN: As the war is at an end, and its being time to see what we all shall get at again, I am anxious to get back on the river and commence doing something. It's impossible to do anything at this place. I want to meet you at an early day at some place to see what to determined on for the future. This fall there will be a good business done at the Hogan place, keeping an open house and stable, &c.
96 &c. It will be the best stand in the county, and will pay well, and I can attend to it with the other plantation business. The timber for fencing will all have to be brought from the Buck land, and for improvements. Our understanding was, I was to go back as soon as the war was over, when you took the hands over to Madison, and I am ready to go as soon as possession can be got, and I want to get straighten, all things agoin, and our old business all settled up. I want to carry out all just as it was intended and right, and we must have the books brought up and all settled up, and see how matters stand. I have all the old books and papers. By return of boy write me if you will meet me in any reasonable time and place, or come over here. It's so uncertain about finding you at any place or I would go over and hunt for you. I will go to V'burg before long, and would like to see you there and go over the river together. Have you those two certificates give' by the Federals for the cotton used in the siege 1862; and by H. K. Breese, capt. mortar fleet, for 36 bales? It will be paid, I am told. If you have them please send them by the boy, inclosed to me. Burwell will collect it, and I need some money. There was two of them, and one Dr.
97 White give you of his own, and one belonged to the old firm. I can collect it. Now, if you have them, send it. I can prove them up at V'burg by a lieut. that was there at the time; he thinks we will get pay for the gin-house. I am entirely out of greenbacks; never had any since 1862, what I let you have, 100 and odd dollars. So far as planting is concerned, I will soon make all up. I well know there no man that can beat me making cotton and corn. As soon as any system is settled upon, I will go to work. No planter can beat me, and I intend to make all up I have lost in 3 years. I know I can work hands to better advantage and *evseing on both hands and* terms than anybody else. If anybody makes money under these regulations, I will do it. Can you send me $50 in greenbacks? I have some corn, &c., the road, and can't get it unless freight paid in greenbacks? I have cotton, but don't want to sell at 10c. All well, and send love to all.

Yours, truly,

R. W. BURNEY.

(Endorsed:) Exhibit 16. Filed Aug. 4, 1870. Geo. T. Swann, clk.

98[1] *Exhibit No.* 17 *to answer of W. A. Stone.*

MORTON, *Sept. 6th*, 1863.

DEAR WOODMAN: If you will send me ten thousand dollars I will give you a receipt for that amount against the notes, and as soon as I get the notes we will settle them up. I sent them off when everybody was running. If you send it please do it immediately, as I can use it in buying cotton at 15c. to 20c., and you may take half interest if you wish. I have shipped 40 bales to Mobile, and have 10 more. I am very unwell,

and have been for a week, and so is Mr. Trayler. Let me hear from you soon.

My kind regards to Mrs. W. & C.

Yours, truly,

R. W. BURNEY.

I am offered 400 bales cotton at 20c., about 15 miles from here. I am so week I can't writ'. You will oblige me by $5,000. If not convenient to send $1,000, $5,000; I can make out the remainder. You can send it by express to the care of the agent R. R., or by some acquaintance coming up on the cars.

(Endorsed:) Exhibit 17. Filed Aug. 4, 1870. Geo. T. Swann, clk.

98[2] And on the 12th day of January, A. D. 1871, came the said complainants, by attorneys, and filed their replication to the answer of said defendant, William A. Stone, to their bill of complaint herein, as follows, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Circuit court, sitting in chancery.

EZRA B. TOWNE, ADMR, ET AL.,
vs.
WILLIAM A. STONE. } 125. N. S.

And the complainants come and reply, &c., and say that the statements and allegations in their bill contained in, manner and form as therein set forth and alleged, are true, and the statements and allegations in defendant's answer, as therein set forth and alleged, are not true, and this complainants are ready to verify, maintain, and prove in such manner as the court may direct; wherefore complainants pray, &c.

HARRIS AND HARRIS, AND YERGERS,
Solrs. for Complts.

Filed 12 Jan'y, 1871.

GEO. T. SWANN, *Clk.*

98[3] And on the 11th day of April, A. D. 1871, came the said complainants by their said solicitors, Harris and Harris and W. and J. R. Yerger, and filed in this cause in said court their petition for leave to file an amended and supplemental bill of complaint in this cause, which said petition, with the order of Hon. R. A. Hill, judge of said court, thereon is as follows, to wit:

To the Hon. Robert A. Hill, judge, &c., &c., of the circuit court of the United States for the southern district of Mississippi:

The petition of Ezra B. Towne, administrator of Robert W. Burney, deceased, late of the parish of Madison, State of Louisiana, where your orator, Ezra B. Towne, resides and is a citizen; Amanda McDonough, and her husband, John McDonough, and Leilla Felt, and her husband, Albert Felt, and the minors, Matilda T. Burney, Anna V. Burney, Mary E. Burney, and Minnie Burney, by their next friend, Ezra B. Towne, all of whom are residents of said parish of Madison, State of Louisiana, by Harris and Harris, their solicitors, respectfully represent
98[4] that your orators filed and exhibited their bill of complaint in said

circuit court of the United States, on the chancery side thereof, against William A. Stone, defendant, a citizen of the county of Copiah, residing at Hazelhurst, wherein, for the causes, reasons, and facts in said bill stated, your orators pray that a certain judgment, rendered by said circuit court of the United , for the said southern district of Mississippi, on the 26th day of May, A. D. 1869, in a certain suit in favor of said William A. Stone against Ivory F. Woodman, administrator, with the will annexed, of O. O. Woodman, deceased, be set aside, reviewed, reversed, and held for naught, for the deceit, fraud, covin, and collusion in said bill exhibited, practised by the said I. F. Woodman and William A. Stone, in obtaining the said judgment aforesaid, which said judgment, in their said bill, your orators allege and charge was fraudulent and void, and obtained in order to pursue property of said R. W. Burney, deceased, now in the hands of your orators, as the heirs at law and distributees of said R. W. Burney.

98[5] Your orators now show unto your honor that, since the filing of the said bill, your orators have discovered a very material and necessary paper, in writing, in the handwriting of said I. F. Woodman, which your orators believe will show also the fraud practiced in obtaining said judgment aforesaid, and your orators believe it to be material and necessary and of vital importance to your orators that said paper should be produced and exhibited before the court to aid their said suit aforesaid.

Wherefore your orators pray for leave to file an amended and supplemental bill in said cause, the same being numbered N. S. 125, chancery, circuit court U. S.

Respectfully submitted.

HARRIS AND HARRIS AND YERGERS,
For Complainants.

AP'L 6, 1871.

Let the amended bill be filed as prayed for in the within petition.
April 10, 1871.

R. A. HILL, *Judge.*

Filed and spa. iss'd Ap'l 11, '71.

G. T. SWANN, *Clk.*

99 And afterwards, to wit, on the 11th day of April, 1871, came the said complainants, by their counsel, Messrs. Harris and Harris, and filed their amended and supplemental bill of complaint in this cause, together with the order of Hon. R. A. Hill, judge of said district court, authorizing the filing of the same. Said amended and supplemental bill of complaint, and order of the judge thereon, are as follows, to wit:

Amended and supplemental bill.

In the circuit court of the United States of America for the southern district of Mississippi.

To the judges of the circuit court of the United States for the southern district of Mississippi, in equity sitting:

Your orator, Ezra B. Towne, administrator of Robert W. Burney, deceased, late of the parish of Madison, State of Louisiana, where your orator, Ezra B. Towne, resides as a citizen; Amanda McDonough, and

her husband, John McDonough; and Leilla Felt, and her husband; Albert T. Felt; and the miners, Matilda T. Burney, Anna V. Burney, Mary E. Burney, and Minnie Burney, by their next friend, Ezra
100 B. Towne, all of whom are residents and citizens of said parish of Madison and State of Louisiana, bring this their amended and supplemental bill of complaint, by leave of the court first had and obtained, against William A. Stone, a citizen of the State of Mississippi, and of the county of Copiah, at Hazlehurst, in the said district:

Therefore your orators complain and say, that in this honorable court, upon the law-dockets thereof, a declaration was filed, on the 26th day of May, A. D. 1869, in behalf of said William A. Stone, against Ivory F. Woodman, administrator, with the will annexed, of O. O. Woodman, deceased, praying judgments against said Ivory F. Woodman, administrator as aforesaid, upon the several promissory notes, as follows, to wit: the four promissory notes of O. O. Woodman, dated New Orleans, November 1st, 1857, payable to his own order, at the office of Brown, Johnston & Co., New Orleans, La., and by him endorsed, with eight per cent. interest per annum from maturity until paid, the first for the sum of three thousand dollars, due 15th Feb'ry next after date; the second for the sum of three thousand dollars, due 15th March next after date; the third for the sum of three thousand dollars, due
101 five months after date; and the fourth for the sum of two thousand and sixty-one and $\frac{15}{100}$ dollars, due 15th April next after date; all of which will be made more fully to appear unto your honors by reference to a duly-certified copy of said declaration, herewith filed, made part hereof, as Exhibit "A," to the original bill herein. And upon the same day, to wit, the 26th day of May, A. D. 1869, said Ivory F. Woodman, claiming to act as administrator aforesaid, appeared in said court, and thereupon confessed judgment in favor of said William A. Stone upon said declaration in manner and form following, that is to say:

WILLIAM A. STONE
vs.
IV'RY F. WOODMAN, ADNR., WITH WILL ANNEXED, &c., of O. O. Woodman. } 803.

This day came into court, in his own proper person, Iv'ry F. Woodman, the defendant in this cause, and enters his appearance therein as administrator with the will annexed of Oliver O. Woodman, deceased, and then and there confesses and admits an indebtedness of said estate of O. O. Woodman on the notes sued on and amounting to the sum of twenty-one thousand and eight hundred and sixty-eight and $\frac{35}{100}$
102 dollars, and consents that judgment may now be rendered against him for said amount, to bear interest from this date at the rate of eight per cent. per annum, and thereupon it is considered by the court that the plaintiff do have and recover of and from said Iv'ry F. Woodman, administrator, with the will annexed, of Oliver O. Woodman, said sum of twenty-one thousand and eight hundred and sixty-eight dollars and 35 cents, the amount confessed as aforesaid to be levied of the goods and chattels, rights and credits, lands and tenements of the said O. O. Woodman in defendant's hands to be administered under said will, together with the costs in this behalf expended, to be taxed, &c., as will more fully appear by reference to Exhibit "B" to the original bill herein made part of this bill and prayed to be taken as part hereof. Your orators now show unto your honors that said promissory notes

aforesaid were not exhibited with said declaration, as by the laws of the State of Mississippi required to be done, and your orators are informed and believe that said notes were never probated against the estate of O. O. Woodman, deceased, which was then open and being ad-
103 ministered by said Ivry F. Woodman, in the probate court of the county of Warren, State of Mississippi, which your orators are advised, informed, and believe, and so charge, constitute evidence of fraud, as your orators will more fully hereafter show unto your honors.

Your orators now show unto your honors that your orator, Ezra B. Towne, is the administrator of the said Robert W. Burney, deceased, in the State of Louisiana, duly appointed and qualified by the proper courts, as will more fully appear unto your honors by reference to duly certified copy of his letters of administration and bond herewith filed as part hereof, marked Exhibits C and D to the original bill herein, and that your orators, Amanda McDonough, wife of John McDonough, Leilla Felt, wife of Albert T. Felt, Matilda T. Burney, Mary E. Burney, Anna V. Burney, and Minnie Burney are the only heirs at law and distributees of said Robert W. Burney, deceased, interested in the estate, real and personal, of said decedent, and that by the laws of Louisiana your orator, Ezra B. Towne, as administrator as aforesaid, is also interested by law and made a party of interest in the real estate of
104 said Robert W. Burney, deceased, and that therefore your orators are the only persons of interest or having any interest whatever in the said estate of Robert W. Burney, deceased; which said estate consists of the following-described lands, to wit, situated in the parish of Madison, State of Louisiana, bounded on the east and west sides by the Mississippi River, on the north side by the old Hoffman tract, on the south side by the old Frederick Smith tract, now or formerly owned or occupied by Nicholson Barnes, being the same confirmed to Henry Eaton and subsequently purchased by said Woodman at sheriff's sale in the case of John Curtis vs. Woodman and Dennis, and containing five hundred and twenty-five acres of land, and also a certain tract of land situated in said parish and State, being known as the McKeernan tract, containing five hundred acres more or less. Your orators now show unto your honors that said O. O. Woodman, deceased, and said Robert W. Burney, deceased, in the year A. D. 1848, were intimate, personal friends, and the greatest confidence existed between them one for the other, which your orators are informed and believed only
105 ceased with the death of each; that in the year A. D. 1848, said O. O. Woodman, owning the said land hereinbefore described and not being a planter himself, entered into co-partnership with said Robert W. Burney, deceased, who was an excellent planter, to cultivate said lands; and being mutually satisfied, said Woodman, in the year 1848, conveyed one-half said lands to said Robt. W. Burney. Your orators now show unto your honors that afterwards, to wit, on the 16th day of November, 1857, said O. O. Woodman being indebted to the firm of Brown, Johnston & Co., of New Orleans, La., made, executed, and delivered the said promissory notes hereinbefore described to said Brown, Johnston & Co., with two other notes, making six notes in all, and secured the same to be paid by a mortgage upon said land and premises aforesaid, a duly certified copy whereof will be exhibited to your honors should the same become necessary and material upon the trial of this cause. And after the execution of said notes, your orators show unto your honors that two of them were paid by the said O. O. Woodman, and soon after that the said O. O. Woodman departed this life. And your orators show that his succession was opened in

106 the city of New Orleans, State of Louisiana, by the appointment of one Joseph Tickell, as testamentary executor, who, immediately after his appointment, departed for Europe, leaving said Ivry F. Woodman his agent by special power of attorney to administer said estate. That your orators are informed and believe that said Iv'ry F. Woodman took possession of all the effects of said succession, and has since administered the property as his own.

Your orators are informed and believe that said O. O. Woodman neglected to have said mortgage cancelled to the extent of the said two notes paid by him as aforesaid, and that said Iv'ry F. Woodman found them amongst the papers of said O. O. Woodman, deceased, and thereupon caused a suit to be instituted against the succession of said O. O. Woodman in the name of his son, F. O. Woodman, upon said two other notes, and the said Iv'ry F. Woodman, contrary to the well-established principles of the civil law, virtually confessed a judgment upon said two promissory notes long after they had been proscribed by said laws of Louisiana, where the same had been made and were payable.

107 Your orators now show unto your honors that soon after the death of O. O. Woodman, who died in August, A. D. 1858, your orators are informed and believe that said Robt. W. Burney purchased the four outstanding and unpaid notes hereinbefore described and set forth from Brown, Johnston & Co., the holders thereof, and by a regular notarial act became subrogated to all the right and interests and privileges of said Brown, Johnston & Co. in and to said mortgage aforesaid, all of which will be exhibited to your honors by a duly certified copy thereof, to be hereunto exhibited should the same be material and necessary. That your orators are informed and believe that said Robert W. Burney instituted his suit in the second district of New Orleans and obtained a decree ordering and decreeing that said land so mortgaged as aforesaid should be transferred to him, and that on the 27th day of June, A. D. 1860, Iv'ry F. Woodman, as the said agent and attorney of said Tickell, testamentary executor as aforesaid, before James Graham, a notary public of said State of Louisiana, in obedience to said decree of said second district court of New Orleans, executed an act of transfer and deed of sale of all the property held by said O. O. Wood-

108 man and Robert W. Burney to said Robt. W. Burney, and acknowledged in said act full payment and gave an acquittance therefor, as will be more fully shown unto your honors by a duly-certified copy of all said proceedings, should the same become material and necessary. Your orators now further show unto your honors that at the time they filed and presented their original bill in this cause your orators were informed and believed, and so charged in their said original bill, that said I. F. Woodman obtained possession of the said four outstanding notes by said Burney, returning them to said Woodman in good faith, as the agent of the said executor, upon receipt by the said Burney of said act of transfer and sale aforesaid, and thus by their said original bill your orators charged said I. F. Woodman came into possession of said four promissory notes described in said declaration aforesaid, upon which he confessed judgment as aforesaid. But your orators now show unto your honors that since the filing of the said original bill, in searching the papers of the late R. W. Burney, your orators have discovered a paper of which the following is a true and literal copy, to wit:

109 "$3,000.] NOVEMBER 1ST, 1857.

"On the 15th day of March next after date I promise to pay

to the order of myself, at the office of Brown, Johnston & Co., N. O., three thousand dollars, with interest, after maturity, at the rate of eight per c. per annum, after maturity, until final payment.

(S'gn') "O. O. WOODMAN."

"Protested at maturity.

(Endorsed:)

"O. O. WOODMAN."

(Written across the face:)

"Ne varietur.

"New Orleans, Novr. 16, 1857.

"JAS. GRESHAM, *N. P.*"

"The foregoing *is* copies of four notes which I have rec'd of R. W. Burney, esq., being notes that he purchased of Brown, Johnston & Co., and which we purchased of said Burney, and we agree upon final settlement to pay to said Burney whatever may be due him on said notes, on demand, with the same rate of interest, eight per ct., until final payment, allowing us upon our payment and corresponding interest from the time so paid.

"WOODMAN AND BEMENT.

"Witness:

"B. HARDAWAY.

"WM. W. GIBSON.

"In consideration of the above-stated transfer unto Woodman and Bement, I agree to keep and hold for benefit of said Burney until final payment, the same security upon the estate made to secure the
110 same notes, or a corresponding security, until final payment by W. and Bement.

"I. F. WOODMAN.

"Witness:

"W. W. GIBSON.

"B. HARDAWAY."

"3,000.] NEW ORLEANS, *Nov. 1st*, 1857.

"On the 15th day of February next after date I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., three thousand dollars, value rec'd, with interest at the rate of eight per ct. per annum from maturity until final payment.

(S'n'd) "O. O. WOODMAN."

"Protested at maturity."

(Written across the face:)

"Ne varietur.

"New Orleans, Nov. 16th, 1857.

"JAMES GRESHAM, *Notary P.*"

"New Orleans, Nov. 18th, 1857.

"Received on within note two hundred and nine dollars.

(S'n'd) "BROWN, JOHNSTON & CO.

"Per MORRIS FISHER."

(Endorsed:)

"O. O. WOODMAN."

"3,000.] NEW ORLEANS, *Nov. 1st*, 1857.

"Five months after date I promise to pay to the order of myself, at

the office of Brown, Johnston & Co., N. O., three thousand dollars, value rec'd, with interest at the rate of eight per cent. per annum from maturity until paid.

(S'n'd) "O. O. WOODMAN."

"Protested at maturity."

(Written across the face:)
"Ne varietur.
"New Orleans, Nov. 16th, 1857.

"JAMES GRESHAM, *Notary.*"

'2,761.15.] NEW ORLEANS, *November 1st*, 1857.

"On the 15th day of April after date I promise to pay to the order of myself, at the office of Brown, Johnston & Co., twenty-seven
111 hundred and sixty-one $\frac{15}{100}$, value rec'd, with interest at the rate of eight per ct. per annum from maturity until final payment.

(S'n'd) "O. O. WOODMAN."

"Protested at maturity."

(Written across the face:)
"Ne varietur.
"New Orleans, Nov. 16th, 1857.

"JAMES GRESHAM, *Notary.*"

Your orators now show to your honors and charge the truth to be that this paper is in the handwriting of said I. F. Woodman, drawn by him, and speaks conclusively for itself the whole truth, how said I. F. Woodman did obtain possession of said four notes upon a distinct and positive agreement in writing that said Woodman, therein in one part claiming to act for Woodman and Bement, and in another part for himself, would pay to said Burney the full and actual value therefor on demand, with interest, as therein stated; that said paper was drawn and signed by said I. F. Woodman alone, in the year 1864, in Scott County, Mississippi, long after the firm of Woodman and Bement had dissolved, and that it was the individual transaction of the said Woodman, as will be shown at the trial hereof, and not in any manner or any way a payment made to said Woodman and Bement. Your orators show unto your honors
112 that, upon the execution and delivery of this paper alone, said Burney having acquired the said notes as aforesaid, said I. F. Woodman was entrusted with the said notes of the said Burney, and that the said Woodman so receiving the said notes as aforesaid from the said Burney, and the said Woodman and Bement have never paid for said notes nor was any settlement made therefor, but that at the death of said Burney said Woodman was holding the said four notes under the said agreement, and that the said four notes thus held by said Woodman are the property of your orators as the legal representatives of the said Burney; and that said paper so found among said papers of the said R. W. Burney, and which will be produced at said trial hereof, is a living witness of the fraud, deceit, and covin practiced by the said I. F. Woodman in obtaining the judgment aforesaid.

Your orators now further show unto your honors that Robert W. Burney departed this life in the year A. D. 1866, having been, during the said period of his life from said act of sale to him up to the time of his decease, in quiet and undisturbed possession of said lands, not one
113 single act having been done by the said Iv'ry F. Woodman to disturb his rights thereto, and not one single claim having been

made by the said William A. Stone either against said Burney in his life-time or against the estate of said O. O. Woodman by the probate of said notes or otherwise, known to your orators.

Your orators are informed and believe that said Iv'ry F. Woodman and said William A. Stone permitted these matters to remain as hereinbefore stated until the life of the father and friend of your orators became sealed in death, when the suit or declaration hereinbefore set forth is filed and exhibited by said Stone against said Iv'ry F. Woodman, and said judgment confessed with the sole view and intention and design and desire of both of said Iv'ry F. Woodman and William A. Stone, as your orators are informed and believe, and so charge, to defraud your orators by the judgment so obtained in this honorable court upon the aw side hereof, as hereinbefore shown; for your orators charge, and they are so informed and believe, the said William A. Stone and Iv'ry F. Woodman have combined and conspired together to obtain
114 said judgment aforesaid, with a view of pursuing the same against the land aforesaid, in the parish of Madison, State of Louisiana; and your orators charge that the suit or declaration aforesaid and confession thereon were all had and taken upon the same day, without an exhibit of said notes without any evidence whatever of the probate of said notes, and were fraudulently done, as your orators are informed and believe, to defraud your orators; because your orators now show unto your honors that said William A. Stone never received the said notes aforesaid from Brown, Johnston & Co., or said Burney, and never paid one dollar in consideration thereof, but received the same from said I. F. Woodman without consideration, and with intent to defraud your orators, as they are informed and believe, well knowing that the same were the property of the said Burney, and not the property of the said Woodman. That said Iv'ry F. Woodman, in possession of the same as aforesaid, combined with said Stone to have said judgment taken, because said Iv'ry F. Woodman could not and ought not to have confessed the same, and that said Stone was a man of limited or
115 small means and had no money or means to pay therefor, or take the same up, and become lawfully possessed thereof; and because the said notes had all been paid and satisfied as aforesaid by said Robt. W. Burney. And that to defraud your orators by reason of said judgment aforesaid said William A. Stone, by the said Iv'ry F. Woodman, and through the means of the said I. F. Woodman, caused a suit to be instituted against your orators upon said judgment, in the 13th judicial district court of Louisiana, in and for the parish of Madison aforesaid, to have the same enforced, collected, paid, and satisfied out of the lands aforesaid, which, as your orators have already shown, were in truth and fact the lands of said Robt. W. Burney, a certified copy of which said suit against your orators is herewith filed, and marked "Exhibit E," to said original bill, which said suit was filed in June, A. D. 1869, said judgment obtained in May, 1869, and the hurry and haste which has marked their whole proceedings, your orators charge to be evidence of fraud. Your orators are informed and believe that said Iv'ry F.
116 Woodman has employed the counsel in the obtaining of this judgment aforesaid, and in the institution of this suit aforesaid, and that the said Stone hath lent the use of his name with the sole view aforesaid of defrauding your orators, by having the said judgment executed upon the said lands aforesaid. That your orators knew nothing whatever of these proceedings in this honl. court until said suit against your orators in said 13th judicial district court of Louisiana was instituted as aforesaid, when said judgment was exhibited and sought to be

enforced against said land; and that your orators requested the said William A. Stone and Iv'ry F. Woodman to desist from the prosecution of said suit and judgment aforesaid, and your orators well hoped they would have desisted therefrom. But now, so it is, may it please your honors, that the said William A. Stone and Iv'ry F. Woodman have, in concert with others, colluding and confederating together, refused to comply with said request, and insists that said judgment was in truth and fact equitable, just, and obtained in good faith, well knowing that the same is illegal, unequitable, unjust, fraudulent, and void, all which actings
117 doings, and practices, and refusals are contrary to all good conscience, and tend to the manifest wrong and injury of your orators. Your orators are informed and believe that said judgment rendered by this honorable court, on the said 26th day of May, A. D. 1869, hath been signed and enrolled in this honorable court, but your orators do aver and say they are aggrieved by the said judgment, and that they ought not to be bound thereby. Nor should the same be enforced against your orators, as the same is fraudulent as aforesaid, and ought to be reversed, and your orators bring this their bill within five years from the rendering of the same. To the end, therefore, that said judgment of this honorable court and all proceedings thereon may be reversed, altered, and set aside, and declared to be null and void, and that said defendant, William A. Stone, may answer in the premises, and that your orators may be relieved in all and singular the premises, according to equity and good conscience, your orators pray that said William A. Stone may be made party defendant to this bill and that
118 he may come into court here and a full, complete answer make to this bill and all the allegations thereof, and your orators pray your honors to decree that said judgment aforesaid rendered on the said 26th day of May, A. D. 1869, may be reviewed, reversed, altered, and declared to be null and void, and that the same may be fully cancelled and removed from the rolls of this honorable court, and held for naught, and be set aside, and all proceedings thereon had or taken, and for general relief in the premises. And your orators pray that your honors shall grant unto them the most gracious writ of injunction, injoining, preventing, and prohibiting said William A. Stone from any and all other and further proceedings upon said judgment aforesaid, against your orators, until the further order of your honors had herein, and that said injunction may be made perpetual. May it please your honors to grant to your orators the most gracious writ of subpœna of the United States, directed to the said William A. Stone, commanding him to be and appear, &c., and abide the decree of this honorable court hereon; and, as in duty bound, your orators will ever pray, &c.

HARRIS AND HARRIS, *Sols.*

119 UNITED STATES OF AMERICA,
The Southern District of Mississippi:

Personally appeared before me, Laz. Lindsey, a commissioner of the United States for said district, Albert T. Felt, one of the complainants in the foregoing supplemental and amended bill, who made oath that the facts stated in the foregoing bill are true where stated of his own knowledge, and where stated on information and belief he believes the same to be true.

A. T. FELT.

Sworn to and subscribed before me this 6th day of April, A. D. 1871.

LAZ. LINDSEY,
U. S. Commissioner.

The complainants are authorized to file this amended bill April 10th, 1871.

R. A. HILL,
Judge, &c.

Filed by leave of court Ap'l 11th, 1871, and spa. to May rules '71.
GEO. T. SWAN, *Clk.*

Subpœna.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

To the President of the United States to the marshal of the southern district of Mississippi, greeting:

120 You are hereby commanded, without delay, to summon William A. Stone, who is a citizen of the State of Mississippi, to appear before the circuit court of the United States for the southern district of Mississippi, at the city of Jackson, at rules, to be holden in the clerk's office of said court, on the first Monday in May next, to answer an amended and supplemental bill in equity, exhibited against him by Ezra B. Towne, administrator of Robert W. Burney, dec'd, Amanda McDonough, and her husband, John McDonough, Leila Felt, and her husband, Albert T. Felt, and the minors, Matilda T. Burney, Anna V. Burney, Mary E. Burney, and Minnie Burney, by their next friend, Ezra B. Towne, complainants, all of whom are citizens of the State of Louisiana, and unless they shall enter their appearance therein in the clerk's office aforesaid, on or before the time specified above, the said bill will be taken for confessed. And have then there this writ, and how you have executed the same.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, and the seal of our said circuit, this 11th day of April, A. D. 1871, and in the 95 year of the Independence of the United States of America.

[L. S.] GEO. T. SWAN, *Clerk.*

121 Executed this writ on the defendant, Wm. A. Stone, by reading the same to him, he waiving a copy of the same, this 27th day of April, 1871.

M. SHAUGHNESSY, *U. S. M.*
By W. H. FOARD, *Depy.*

And on the 26th day of July, 1871, the said defendant, Wm. A. Stone, by his solicitors, Shelton and Shelton, filed his answer herein to complainant's amended and supplemental bill of complaint; which said answer, with the exhibits filed therein, are as follows, to wit:

The answer of W. A. Stone to the amended bill of Ezra B. Towne et al., filed against him in the United States circuit court, sitting in chancery, for the southern district of Mississippi.

This respondent, reiterating and relying upon his answer to the original bill as an answer to so much and such parts of the amended bill as is a repetition of the contents of the original bill, hereby adopts that answer as part of this answer; and, proceeding to answer the new matters contained in the amended bill, respondent says:

122 That, personally, he knows nothing about the execution by Woodman and Bement, or by Woodman, of the receipt alleged to

be copied in the amended bill for said four notes, and he requires the production and proof of the original receipt.

But if an original be according to said alleged copy, respondent does not admit that its import, meaning, or intent is as charged in the bill; nor does he admit that said paper has been found by complainants since the original bill was filed; on the contrary, as respondent is informed and believes, said original, such as it may be, was in the hands and possession and knowledge of complts. before this suit was brought, and had been fully examined by them, or some of them, and respondent denies the allegation that it has been discovered or found since said original bill was filed.

The facts and circumstances under which, as respondent is informed and believes, said notes were endorsed and delivered by Burney to Woodman and Bement, and the receipt given by them to him,
123 will tend more clearly to develope the true character of the transaction and the true intent and meaning of said receipt, as therein expressed.

R. W. Burney had and kept with Woodman and Bement, partners, in New Orleans, La., an account which begun about 1860, was continued at their house in that city until that city was taken by the Federals, in April, 1862, and afterwards, through I. F. Woodman, one of the partners, (during the time resided in Mississippi during the war,) said account was continued until Burney's death, in the spring of 1866.

Said notes were transferred by Burney to Woodman and Bement, about the day of February, 1864, at which time the original receipt was given by Woodman and Bement to Burney. At that time, and before the transfer, Burney was indebted to Woodman and Bement (partly for goods sold, but mainly for moneys advanced to him,) in about the sum of $18,277.94. The four notes, with the interest thereon, amounted to $16,874. The books of Woodman and Bement being at New Orleans, the transactions being made in the northern part of Rankin County, Miss., on or near a plantation then cultivated by Burney and I. F. Woodman, as partners, and with their partnership negroes and stock removed from the partnership plantation in Louisiana, said
124 books were inaccessible. It was known to them that there was a balance against Burney, but whether it exceeded the amount of said notes, and interest, or was less than these, said parties did not know. For that reason the receipt was given as a protection to Burney.

Respondent insists that the transaction was a purchase by Woodman and Bement from Burney, for value received, and therefore Burney's special endorsement of the notes to them expressed that it was for value received, and the receipt expressed that it was a purchase. But it was an absolute purchase, with an agreement that upon final settlement of Burney's account with Woodman and Bement they would pay to Burney in that settlement the amount of s'd notes, and interest at 8 per cent., they also to be allowed corresponding interest on their payments.

Respondent also insists that the addendum by I. F. Woodman is but an agreement to keep alive the security for Burney's benefit until upon said account Burney should have received full payment for said notes and interest, (a fact which really then existed, though the parties to the transaction did not then know it.) Or if Woodman and
125 Bement should, before final payment, dispose of the notes and securities, I. F. Woodman, (who, it will be remembered, was Burney's partner in the planting interest in Louisiana,) would give him equivalent security until such final payment of the amount of said notes

and interest by Woodman and Bement, to Burney, or pay the same himself.

Respondent submits that the foregoing is a correct construction of said instruments of writing; that so far from showing that the notes were satisfied or discharged, it shows that they were purchased and in full force, and not paid and discharged. So far from showing that they belong to R. W. Burney's estate, it shows that Woodman and Bement, for a valuable consideration, purchased them from Burney, who endorsed and delivered them to Woodman and Bement.

Respondent denies that the transfer of said notes and the giving of the receipt signed by Woodman and Bement was the individual transaction of said Woodman; it was a transaction made by him as a member of the firm, for the firm, and in the name of the firm, which has never been repudiated or disclaimed by Bement, the only other
126 member of the firm, but has been sanctioned, acquiesced in, and ratified by him.

After said notes were purchased by Woodman and Bement from Burney and were credited on his current account with them, the balance against him was about $1,400. The account was continued until Burney's death, in the spring of 1866. The balance aforesaid against Burney was never reduced, but at the time of his death (with said notes credited to him) was about $5,000, more or less.

Respondent denies that I. F. Woodman was by Burney entrusted with said notes as Burney's property, and says that Woodman and Bement purchased them from Burney, and have paid to Burney the full amount thereof, principal and interest. I. F. Woodman never was the holder or owner of said notes; Woodman and Bement were; and respondent denies that R. W. Burney or his legal representatives have now, or have had since Burney's transfer of them to Woodman and Bement, any right or title to or claim or interest, legal or equitable, in said notes.

Respondent denies that either he or his assignee, Isaac Strickland, received said notes from I. F. Woodman. Strick. received said
127 notes from F. O. Woodman, endorsee of Woodman and Bement, and paid a full valuable consideration therefor, without any knowledge or notice whatever of any claim, legal or equitable, on the part of Burney or his legal representatives, and without notice of the claim by them of any equity on said notes, or the products and proceeds thereof. Respondent never knew that Burney's representatives claimed that these notes belonged to them until the supplemental bill was filed.

Respondent again denies all the allegations of fraud, combination, and collusion so recklessly made in the bill as amended, and repelling those charges, says that they come from men who know nothing about the transactions; that if Burney were living he would set up no such pretence, and no pretence of right to said notes, for he would know the facts to be otherwise; but the truth is, as respondent is informed and believes, this suit has been created by and is now prosecuted in the interest of Ezra B. Towne, and certain other speculative gentlemen who are the real beneficiaries thereof, and they and not Burney's heirs will
128 profit thereby if successful, they having purchased the lands from Burney's heirs at an insignificant price, because of the incumbrance, and are now endeavoring to defeat the incumbrance by false pretences, pretences which Burney would never have indulged.

To show the fallacy of some of these pretences, in addition to the exhibits filed with the original answer, respondent herewith files a number of original letters and other papers from Burney to I. F. Woodman and others, extending down very nearly to the time of his death, and

all written by said Burney; one also from his wife, and a memorandum of money loaned. They are numbered 101, 102, 103, 104, 105, 106. These documents show the most confiding relations between I. F. Woodman and Burney, down to Burney's death. They show that Burney recognized I. F. Woodman as his partner in planting; that the negroes and effects refugeed from the Louisiana plantation, in 1862, to Rankin County, Mississippi, were recognized by Burney until his death as partnership property of Woodman and Burney; that after the transfer of said notes to Woodman and Bement, Burney never claimed any in-
129 terest in them; that Burney also recognized the Louisiana plantation as partnership property until his death; during the whole of said time Burney made notes, drafts, and other legal documents in said partnership name.

The individual account of Burney with Woodman and Bement, upon which said notes were credited, was his individual indebtedness, and not the indebtedness of Woodman and Bement.

Respondent again states that all the allegations of the bill that he directly or indirectly received said notes from I. F. Woodman, are untrue. He states that he received them from Isaac Strickland, who resides in Maine, whom this respondent familiarly knew in that State before he ever removed therefrom to the State of Mississippi. Respondent and said Strickland grew up in the same neighborhood, from childhood to manhood, and intimate social relations existed between the two families.

Still further to show the false practices and reckless charges in said bill, respondent states that, since he filed his original answer in this case, he has learned the destiny of the other two notes referred to in the original bill as having been abstracted by I. F. Woodman from
130 the papers of O. O. Woodman's estate. These two notes were during the life-time of O. O. Woodman, and with his consent, transferred by Brown and Johnston to E. Woodman, of Boston, Mass., on the 18th April, 1859; all of which will appear by the original letter of Brown, Johnston & Co. to E. Woodman, herewith filed, marked "Exhibit 107."

At the time that respondent took said judgment against O. O. Woodman's administrator, he had no knowledge, and not even a suspicion, that any of the pretences in relation to said notes were claimed by Burney's heirs, or administrators, or any other person whatever. Respondent had at that time heard that O. O. Woodman's ownership of the Louisiana tract of land would be controverted by the purchasers from Burney's heirs, then holding it, and that controversy respondent expected to meet if he proceeded against that land, but no question about title to the notes, and respondent now believes and charges that this bill is filed for purposes of delay, and to avoid a trial of the contest as to the Louisiana land held by said speculators.

131 And respondent having fully answered, prays to be hence dismissed free of costs.

SHELTON AND SHELTON,
For Respondent.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

This day personally appeared before me, the undersigned, United States commissioner for the district aforesaid, William A. Stone, who,

being duly sworn, on oath, says that the matters and things stated in the foregoing answer of his own knowledge are true, and those stated as from information by others he believes to be true.

W. A. STONE.

Sworn to and subscribed before me this the day of July, 1871.
A. McGEHEE.
U. S. Commr.

Answer to amended bill, with 7 exhibits, filed July 26th, 1871.
G. T. SWANN, *Clk.*

Exhibit 101, *to answer of W. A. Stone to amended bill of complaint.*

MORTON, *March* 17, 1865.

DEAR WOODMAN: Yours 14 inst. at hand. I regret you did not get my letter sooner. I will be in Canton, at court, on Wednesday, 29th inst., and want you there; I presume you will be summoned. I
132 want my horse case tried; it will come up on that day; don't fail to be there; I will have my papers with me; send the hands over soon, and I will attend to the planting. I am sorrow you commenced planting over in Madison again, as the work would improve the Rankin place, and make it valuable after the war. I am decidedly opposed to working other people's land, paying rent, wearing out plows and geering—nothing can be made by it—and paying ⅓ rent. I am willing you kept some of the men over there to help you in your cotton arrangements. I confident corn and meat can be raised over here sufficient to do the place. Meet me at Canton, and we will see what best to be done, &c.

I will not go away until after the Canton court is over.

Doun has been quite unwell for 2 weeks past. All send kind regards to all.

I am yours, truly,

R. W. BURNEY.

P. S.—Send Israel over as soon as possible. I want him to put up a saw-mill, and the man is weighting. I will have my papers ready to go to Memphis or V. Burg at Canton, and opperate at either place if anything can be done.

Filed July 26, 1871.

G. T. SWANN, *Clk.*

133 *Exhibit* 102 *to answer of W. A. Stone to amended bill of complaint*

MORTON, *January* 21*st*, 1865.

DEAR WOODMAN: Yours 15 int. to hand. I will send Isriel and Bochers over just as soon as he finish' off a house he is at work at, & could not well leave it nearly completed, and he is at work for a friend, a refugee from Vicksburg, and he really needs a house with one room for his family. Had I known you would have wanted him, I could have made arrangements by being notified ahead. I had promised him he should go and do this work certain this week, so he co'ld move his family next week; and as soon as he comes home I will send him over, & Bochers, so they can work what you want. I have keep' them busy at work here all the time. Isriel brings me from $7 to $10 a day, which helps me to pay some little of the endless expenses at this

lovely place. I want to keep all the hands at something, that they will pay expenses. I want the lard at the place for my own use; will need it.

I start over to-morrow to Selma and Montgomery, and will leave word with my wife to send both boys over. I will be absent
134 a week or 10 days. I am compelled to go, and on my return want to see you. We must make some arrangements about another year. It will soon be time to begin about another crop. I am compelled to buy some corn for my own use at this place. I am at a loss to know what to think about this ware. It looks like we are pretty well wound up and whip'ed.

I will give Israel and Bochus to go over and cross at Jackson, and walk up. We need the two little mules here to hall up wood, and Pearl River is so high they can't cross only at Jackson.

I want to see you and fix up for another yeare. I dislike very much indeed to live at this place another year, if I could get a better place. It's unpleasant place. My intension is to quit place if I can get a better place in Canton or any other place. When I see you will more *more* fully explain it to you, & see what best. We have lost so much, I am afraid to commence moving any more.

Russ Morton is here, out clothing, barefooted, and out money, and no horse. I will fit him out all but horse. My horse *is* died
135 some time sence, and I have none. All well, and send love to all. Accept the same.

I am yours, truly,

R. W. BURNEY.

What was the agreement between you and Mrs. Doyal about that Prichard field; was she not to give you possession 1st January? Send me over an order on her to take possession, agreeable to your and her contract. She is a contrary old lad' and best to deal close with such people. That field and turned into the other, and the land broke up between theme, will produce a fine lot corn, rightly tended; will make the place look so much better and sell better; also the two end fences will connect the fields, and that will stope the road through frome crops to put all that between the two fields into cultivation, and will help in keeping the fencing up, will br'ak up the road from crops through there as soon as I return from Montgomery; will be ready any day to go downe to Jackson and see.

Filed 26th July, 1871.

G. T. SWANN, *Clk.*

Exhibit 103 *to answer of W. A. Stone to amended bill of complaint.*

136 I am very anxious to go to Vicksburg to make some purchases for the summer; my children and self are entirely destitute of summer clothing. Will you be so kind as to go into V. with me, if you are able? I dislike very much going in alone; and will you please ask Mr. Woodman if he will let me have two bales of the Government cotton he has at Big Black, and Mr. Burney will replace the cotton at any time? We have it here, but the roads are too bad to haul it any distance at present. And another favor: will you get your son to have the cotton sold for me, and the money ready, should you decide to go? Please go; I am very, very desirous of going, and would not like to go without you. Write immediately and let me know your decision. I

await your answer with great anxiety. The children join me in love to Clara and yourself.

My respects to Mr. W.

Yours, in haste,

M. F. BURNEY.

MORTON, *March* 28, '65.

Filed July 26th, 1871.

G. T. SWANN, *Clk.*

137 *Exhibit* 104 *to answer of W. A. Stone to amended bill of complaint.*

Due Vicksburg, May 12, 1865, to Ivory F. Woodman, four hundred dollars, borrowed money, ($400.)

M. F. BURNEY.

Filed 26th July, 1871.

G. T. SWANN, *Clk.*

Exhibit 105 *to answer of W. A. Stone to amended bill of complaint.*

$102.00.] MARCH 6*th*, 1862.

At 10 days after date, pay to the order of E. W. Jack one hundred two dollars, value received, and charge the same to account of

BURNEY AND WOODMAN.

To WOODMAN and BEMENT,
New Orleans, La.

Pay Clapp, Mitchell and Jack.

EDWARD W. JACK.
CLAPP, MITCHELL AND JACK.

Filed 26th July, 1871.

GEO. T. SWANN, *Clk.*

Exhibit 106 *to answer of W. A. Stone to amended bill of complaint.*

Exchange, $100.00.] VICKSBURG, *February* 27, 1862.

At 10 days' date, pay to E. W. Jack or order (for beef) one
138 hundred dollars, value received, and charge the same to yours respectfully,

BURNEY AND WOODMAN.

To Messrs. WOODMAN & BEMENT,
New Orleans, La.

Pay Clapp, Mitchell and Jack, or order.

EDW'D W. JACK.
CLAPP, MITCHELL AND JACK.

Filed 26 July, 1871.

G. T. SWANN, *Clk.*

Exhibit 107 *to answer of W. A. Stone to amended bill of complaint.*

EXCHANGE AND BANKING HOUSE OF BROWN, JOHNSTON & CO.,
New Orleans, 18th April, 1859.

E. WOODMAN, Esq., *Boston, Mass.:*

DEAR SIR: Mr. O. O. Woodman handed to us his 5 notes, your favor, dated Nov. 28, 1857, bearing interest from date at 8% per annum, viz:

1 note payable in 3 years.....	$1,000	Interest paid on same as per endorsement to Nov. 28, '57.
1 " " " 4 "	1,000	
1 " " " 5 "	1,000	
1 " " " 6 "	1,000	
1 " " " 7 "	1,460	
	$5,460	
Interest on same to Apr. 18, '59..	613 95	
	$6,073 95	

Which we have invested in two mortgaged notes of O. O. Woodman, secured by act before Jas. Graham, not. pub. of this city, dated Nov. 16, 1857, which are due—

139

February 25, 1858, $3,000, & pros. fees, $2.50.....	$3,002 50
March 4, " 3,000, " " 2.50.....	3,002 50
Interest from maturity to April 18, 1859, at 8%.....	551 79
Amounting to.....	$6,556 79

The balance required to make up the value of the two mortgaged notes has been handed to us by Mr. Woodman, and we have given him our receipts for them for collection, your account, all of which we hope you will find correct and satisfactory.

Your ob't serv'ts,

BROWN, JOHNSTON & CO.

Filed 26 July, 1871.

G. T. SWANN, *Clk.*

And on the 20th day of January, 1872, the said complainants, by counsel, filed their replication to the answer of said defendant to the said amended and supplemental bill of complaint, as follows, to wit:

Replication to answer to amended bill.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Circuit court, in chancery sitting.

EZRA B. TOWNE ET AL.
vs.
WILLIAM A. STONE. } No. 125.

140 And the said complainants come and reply, &c., and say that the statements and allegations in their said amended bill contained in manner and form as therein set forth and alleged are true; and that the statements and allegations in defendant's answer thereto, as therein

set forth and alleged, are not true; and this complainants are ready to verify, maintain, and prove in such manner as the court may direct; wherefor complainants pray, &c.

HARRIS AND HARRIS AND YERGERS,
For Complainants.

Filed Jan'y 20, 1872.

GEO. T. SWANN, *Clk.*

And on the 20th day of January, A. D. 1872, came the said complainants by counsel, and filed and entered the following motion in this cause in said court, to wit:

Motion.

In the circuit court United States, southern district of Mississippi, in chancery.

EZRA B. TOWNE ET AL.
vs. } 125.
WILLIAM A. STONE.

Motion by complainants that the respondent be required to produce the books of "Woodman and Bement," drafts, acceptances, and
141 other papers referred to by A. H. Bement in his deposition in this cause filed and exhibited, on the trial of this cause, or, failing therein, that all the parts of said deposition of said A. H. Bement testifying as to said books, drafts, acceptances, or other papers be stricken out.

YERGERS AND HARRIS AND HARRIS,
For motion.

SHELTON, *Contra.*

Filed Jan'y 20, 1872.

GEO. T. SWANN, *Clk.*

Ent'd Mo. docket, p. 45.

GEO. T. SWANN, *Clk.*

And on the 3rd day of July, A. D. 1872, came said defendant, by counsel, and entered the following order, setting this cause for final hearing on the hearing-docket of said court, to wit:

In United States circuit court, in chancery.

E. B. TOWNE ET AL.
vs. } 125.
W. A. STONE.

The defendant sets this cause down for final hearing on the bill and amended bill, answer, exhibits, and proof.

SHELTON AND SHELTON,
For Deft.

HARRIS AND HARRIS,
For Complt.

142 And on the 10th day of July, A. D. 1872, came the said complainants, by counsel, and entered the following motion in this cause, to wit:

E. B. TOWNE ET AL.
vs.
W. A. STONE. } N. S. 125.

Motion by complainants to remand this cause to the rules, for the reason that the complainants have not had time sufficient to take the depositions of the witnesses, of which notice had been given to the defendant, which notice, &c., were filed herein Jany. 20th, 1872, and during and since the period since complainants have had notice, most of the witnesses named have been beyond the reach of the complainants, and complainants ask for leave to proceed in the taking of said depositions.

HARRIS AND HARRIS,
For motion.

SHELTON AND SHELTON, *Contra.*

And thereupon, on said 10th day of July, A. D. 1872, a day in the regular May term, 1872, of said court, begun and held at Jackson, on the first Monday of May, 1872, the following order was made in this cause by said court, to wit:

E. B. TOWNE ET AL.
vs.
W. A. STONE. } N. S. No. 125.

143 Ordered by the court that the motion of the complainants to remand this cause to the rules be sustained, and said cause is accordingly remanded to the rules.

And on the 24th day of November, 1872, the following order was filed and entered on the hearing-docket of said court, to wit:

In U. S. chancery court.

E. B. TOWNE ET AL.
vs.
WM. A. STONE. } 125.

Set by deft. Stone for final hearing on bill, answers, and proof.

SHELTON AND SHELTON.

HARRIS AND HARRIS, *Contra.*

And on the final hearing of this cause in said circuit court of the United States in and for said southern district of Mississippi, at the May term thereof, A. D. 1873, the following depositions and testimony was offered and read to the said court in this cause on behalf of the said complainants herein, to wit:

144 Depositions of Ezra B. Towne, Jacob Seal, S. S. P. Dangerfield, H. M. Floyd, A. V. Brown, and Ezra B. Towne, to wit:

The President of the United States of America to Cramer, U. S. Commr La., greeting:

Know ye that, in confidence of your prudence and fidelity, you have been appointed, and by these presents you are hereby invested with full power and authority to examine Ezra B. Towne, Jacob Seal, Edgar D. Farrar, S. S. P. Dangerfield, Floyd, Dundas, and A.

V. Brown, on their corporal oaths, as witnesses in a cause depending in the circuit court for the southern district of Mississippi, sitting in equity, wherein Ezra B. Towne, adm'r, et al., are complainants, and William A. Stone is defendant, on the part of the complainants, upon the interrogatories and cross-interrogatories annexed to this commission; and therefore you are hereby commanded that you at a certain day and place, to be appointed by you for that purpose, do cause the said Ezra B. Towne, Jacob Seal, Edgar D. Farrar, S. S. P. Dangerfield, Floyd, Dundas, and A. V. Brown to come before you, and
145 then and there examine them on oath, upon the said interrogatories and cross-interrogatories, and that you take such examination and reduce the same into writing, and return the same annexed to this writ, closed up under your seal, into the said circuit court, before the judges thereof, with all convenient speed.

Witness the honorable Salmon P. Chase, Chief-Justice of the Supreme Court of the United States and the seal of said circuit court hereunto affixed, at Jackson, in said district, on this 16th day of July, A. D. 1872, and in the 97th year of the Independence of the United States.

[L. S.] GEO. T. SWANN, *Clk*,
Per A. M. GEHEE, *Depty*.

In the circuit court of the United States for the southern district of Mississippi.

IN THE MATTER OF EZRA B. TOWNE ET AL.
vs.
WILLIAM A. STONE. } 125. N. S. Chancery.

Interrogatories to be propounded to Ezra B. Towne, Jacob Seal, Edgar D. Farrar, S. S. P. Dangerfield, Floyd, Dundas, and A. V. Brown, citizens of Madison Parish, Louisiana, witnesses
146 for the complainants in the above-styled cause.

Int. 1st. Were you or not acquainted with R. W. Burney, deceased, in his life-time? Are you acquainted with Ivory F. Woodman? Were you acquainted with F. O. Woodman, deceased, in his life-time?

Int. 2d. State what conversation or conversations, if any, you have heard between R. W. Burney and I. F. Woodman, of or concerning matters of business between them in reference to the notes of O. O. Woodman, dec'd, dated some time in November, 1857, and taken up and held by said Burney. Particularly state what was said, where said, and when said, and who was or were present.

Int. 3rd. State fully and particularly what you have heard R. W. Burney, dec'd, in his life-time, state publicly, openly, and notoriously concerning said notes and the transactions between himself and said O. O. Woodman, I. F. Woodman, or F. O. Woodman; what he said, when and where he made such open, public, and notorious declarations.

Int. 4th. State who owned, at the time of the death of R. W. Burney, what is called the Burney place, and whether any person or persons whomsoever, prior to his death, asserted, declared, or professed
147 to have any interest therein, derived in any manner whatever through said notes of O. O. Woodman, or I. F. Woodman, and how long after the death of said R. W. Burney was it that any such claims were asserted, and who asserted them?

Int. 5th. State all the acts, declarations, or conversations of said I. F.

Woodman, Frank O. Woodman, also, of and concerning any interest in and to said notes or said Burney tract. What was done, declared, and said of or concerning said notes, said tract of land, or any suit instituted to subject said tract to said notes, or any judgment obtained on said notes? Particularize places, times, dates, and state who was or were present thereat.

Int. 6th. If you speak of any suit instituted upon any judgment rendered upon said notes, please particularize the judgment, and state who employed counsel to prosecute said suit. Who figured conspicuously in said suit as the real and apparent plaintiff, urging the suit on, attending to the suit, and manifesting the real interest of an owner or plaintiff therein, and who seemed to make suit his own?

HARRIS AND HARRIS AND YERGERS, *for Complts.*

148 In the circuit court of the United States for the southern district of Mississippi.

IN THE MATTER OF EZRA B. TOWNE ET AL.
vs.
W. A. STONE. } N. S. 125. In equity.

Cross-interrogatories to be propounded to complainants' witnesses, Ezra B. Towne, Jacob Seal, Edgar D. Farrar, S. S. P. Dangerfield, Floyd, Dundas, and A. V. Brown.

Cross-int. 1st. Please state how you were informed of the several matters which you have stated in response to the 4th direct interrogatory, giving the names of your informants.

X 2nd. If, in reply to the 6th interrogatory, you state who employed counsel to prosecute any suit, please state the source of your information on that subject, giving the names of your informants.

X-int. 3rd. Please state what interest, if any, you have in the result of this suit, or of the suits brought by Stone, in Louisiana, to subject the tract of land in Madison Parish, La., to payment of his judgment in the United States court at Jackson, Mississippi, and also
149 state what interest, if any, you have or claim in that tract of land, or any part of it. Do you not claim to own a portion of it; and, if so, how much of it, or what interest in it?

SHELTON AND SHELTON,
For W. A. Stone.

UNITED STATES OF AMERICA,
State of Louisiana:

In the circuit court of the United States for the southern district of Mississippi.

IN THE MATTER OF EZRA B. TOWNE, ADM'R, &C., ET AL.,
vs.
WM. A. STONE. } Chancery.

STATE OF LOUISIANA,
Parish of Madison:

Be it remembered that I, Alfred M. Cramer, a commissioner duly commissioned and qualified to take testimony in the above-entitled cause, do hereby certify that, acting by virtue of and in obedience to the enclosed and annexed commission, issued out of the honorable circuit court

of the United States for the southern district of Mississippi, in the case entitled Ezra B. Towne, adm'r, et al., vs. William A. Stone, I have cited J. J. Dundas, J. C. Seale, S. S. Prentiss Dangerfield, H. M. Floyd, A. V. Browne, and Ezra B. Towne, of the town of Delta, witnesses on
150 behalf of the complainants in the above-entitled cause, to appear before me in the said town of Delta, on this 2d day of August, A. D. 1872, and being then and there duly sworn to declare the truth on the interrogatories and cross-interrogatories put to them in the cause, answered as follows to the interrogatories and cross-interrogatories annexed to said commission.

JAMES J. DUNDAS, being first duly sworn, answered as follows, to wit:

To the 1st interrogatory. I did not know R. W. Burney. He was dead before I came to this parish. I was acquainted with Ivory F. Woodman. I was not acquainted with F. O. Woodman.

To the 2nd interrogatory. I never heard any conversation between R. W. Burney and I. F. Woodman.

To the 3rd interrogatory. For the reason above stated, Mr. Burney being dead before I came to the parish, I never heard any statements of the said Burney.

To the 4th interrogatory. I cannot say who owned the property known as the Burney place at the death of R. W. Burney. In 1871, Ivory F. Woodman asserted in my presence and others that he was the
151 owner of the property, and had got a judgment upon certain notes which he exhibited. He also stated that all persons who were purchasing property here, in Delta, were so doing subject to his (Woodman's) claims. He told me that he should not disturb me, but that other parties would be obliged to make arrangements with him as to their title.

To the 5th interrogatory. I know of no other statements made by said I. F. Woodman than those given above. On one occasion, I recollect that Mr. Floyd and Mr. Patrick Leonard were present at the time he (Woodman) made the above statements on the gal'ery of my store.

To the 6th interrogatory. I only know that I. F. Woodman visited Delta often, and was always talking about suits that he had for the possession of the Burney property. He mentioned that he had two suits pending, one in Mississippi and one in Louisiana. Woodman stated as soon as the suits were settled, he should encourage people to come and settle at Delta.

Cross-examination:

To the 1st interrogatory. I. F. Woodman was my informant.
152 To the x-interrogatory No. 2. I did not state who employed counsel.,

To the 3d x-interrogatory. I have no interest in the suit. I have bought a lot from Col. Towne, admr. of Burney est., to be paid for when he makes me a title.

JAMES J. DUNDAS.

Sworn to and subscribed before me this 2d day of August, A. D. 1872.

A. M. CRAMER,
U. S. Commissioner.

JACOB C. SEALE, being next duly sworn, answered as follows, to wit:

To the 1st interrogatory. I was acquainted with R. W. Burney during

his life-time, also with Ivory F. Woodman, but did not know F. O. Woodman.

To the 2d interrogatory. I never heard any conversation between R. W. Burney and I. F. Woodman in regard to the notes mentioned.

To the 3rd interrogatory. I have heard R. W. Burney speak of being the owner of certain mortgage-notes given by O. O. Woodman to Brown and Johnston. I have heard him mention the matter frequently in speaking of his matters and business relations with O. O. Wood-
153 man. These statements were made to me at Burney's house. I do not recollect of any person being present at the time. During the year 1871 I. F. Woodman was here, in Delta, for nearly a month, and during that time he and I had frequent conversations in regard to that transaction. He had possession of notes which purported to be the notes upon which judgment was rendered in the U. S. court, at Jackson, Mississippi, and which were the notes that Burney had previously held and owned, and which purported to have been transferred, by special endorsement, to Woodman and Bement, a commercial firm in New Orleans, and of which I. F. Woodman was a partner. By his statements to me he impressed me that he was the holder and owner of said notes. I was not acquainted with F. O. Woodman, and consequently have never heard any statements made by him. I examined the endorsement upon the back of the notes, and it appeared to have been originally endorsed in blank and filled up afterwards; the letters of the transfer running down into the signature of Burney. In these conversations between myself and Woodman there was no per-
154 son present. They were generally at the court-house, and between the court-house and the ferry.

To the 4th interrogatory. At the time of his death Burney was in possession of the property known as the Burney place, and asserted all the rights of ownership. During the life of O. O. Woodman he claimed to be part owner of said property. I have never heard any one assert to have title to said property through said notes prior to the death of Burney. Since the death of Burney, and about the year 1869, one Wm. A. Stone instituted a suit here, in the district court of this parish, upon a judgment obtained in the U. S. circuit court at Jackson, Mississippi, upon the notes above described, and I. F. Woodman made the statements to me which I have above related since the institution of that suit, and about which he, Woodman, seemed very much concerned.

To the 5th interrogatory. My answers to the previous interrogatories states all that I can say in answer to this.

To the 6th interrogatory. The judgment which I have mentioned is one obtained in the U. S. circuit court, at Jackson, Mississippi, wherein Wm. A. Stone is plaintiff, and I. F. Woodman, adm'r, is defend-
155 ant, upon which suit was instituted in the district court of the parish of Madison, styled Wm. A. Stone vs. E. B. Towne, adm'r, et al., by which they sought to make the property known as the Burney property liable for the payment of said judgment; that Ivory F. Woodman figured conspicuously in said suit as the real plaintiff, and seemed to manifest a very great interest in it; was urging said suit on, and manifested as much interest as if he was the plaintiff of record. He approached me in such a manner as to induce me to believe that he wished to employ me in behalf of plaintiff. During the time Woodman was here in 1871, as previously stated, Woodman sought my services to induce Albert T. Felt and wife, two of the complainants in the bill filed at Jackson, Mississippi, to set aside said judgment of Wm. A. Stone vs. I. F. Woodman, adm'r, &c., to withdraw said bill. He

had an instrument of writing drawn up to that effect which he wished them to sign. He had spoken once or twice before in regard to this, and said he would make it to their interest to do so. Woodman handed this document to me and requested that I should get them to sign it, but being engaged at that time I could not attend to it at once,
156 and told Woodman that he had better go and see them himself, and that I would see them in the evening, and that he could refer them to me for counsel. That same evening A. T. Felt came to me and *and* exhibited the document, and asked me whether Woodman had spoken to me of the matter. I told him that he had; and he, Felt, wished to know what would be the effect of said instrument if signed by him. I told him what the effect would be, and asked him, at the same time, what Woodman had proposed to give him to withdraw the suit. He answered, one thousand dollars, and said that he was not willing to sign it for that amount. I then told him that from what Woodman had stated to me I supposed he would give him more, and advised him that if Woodman would pay him anywhere near what the interest of his wife was worth to settle it in that way. This occurred about the last of August, 1871. There were no parties present except those mentioned.

Cross-examined:

Answer to 1st x-interrogatory. My informant was I. F. Woodman, as I have before stated.

To the 2d x-interrogatory. I cannot answer this x-interrogatory further than I have answered in my answer to the 6th di-
157 rect interrogatory.

To the 3rd x-interrogatory. I have no interest in the suit. I own two lots of ground in the town of Delta which is a part of the property which I hold under a warrantee deed, and consider myself safe from loss no matter how the suit is determined.

J. C SEALE.

Sworn to and subscribed before me this 2d day of August, A. D. 1872.

A. M. CRAMER, *U. S. Commissioner.*

And then came S. S. PRENTISS DANGERFIELD, who, being duly sworn, answered as follows:

To the 1st interrogatory. I was not acquainted with R. W. Burney or F. O. Woodman. I knew I. F. Woodman.

To the 2d interrogatory. I never heard any statements between R. W. Burney and I. F. Woodman.

To the 3rd interrogatory. I never heard R. W. Burney make any statement relating to the notes mentioned.

To the 4th interrogatory. I only know from the records in my office, being clerk of the district court and custodian of the records of the probate court, that the property was in the name of R. W.
158 Burney and was so inventoried. I do not know whether any person asserted title to the property, through said notes, of O. O. Woodman, prior to his death or not. Some time in 1869, a suit was instituted in the district court of Madison Parish, upon a judgment rendered in Mississippi, against Ivory F. Woodman, adm'r, and in favor of Wm. A. Stone. It was my understanding that they sought to hold the Burney property subject to said judgment.

To the 5th interrogatory. I judge from frequent conversations with I. F. Woodman that he either owned or expected to come in possession of the Burney property. He told me that if I would go ahead and build he would give me a title to the lot, and further proposed to furnish all

the lumber to construct a house if I would pay the transportation for same. He told me that all other parties purchasing property here would have to look to him for title, and that he would show them no quarter when he got in possession. I never had any conversations with Frank O. Woodman. These conversations were so frequent that I do
159 not remember the dates. They occurred in New Orleans, Delta, Vicksburg, and Jackson, Mississippi. I cannot recollect who were present.

To the 6th interrogatory. I. F. Woodman told me that he employed counsel to institute the suit in the district court of this parish upon the judgment before referred to. He procured copies of all records, paid for the same, and advanced costs when said suit was filed. Wm. A. Stone was the plaintiff of record, but I. F. Woodman did all the managing, and appeared to be the most interested in the suit, and attended the sessions of the court regularly.

Cross-examined:

Answer to 1st x-interrogatory. I cannot answer this x-interrogatory, further than I have answered in my answer to the 4th direct interrogatory.

To the 2d x-interrogatory. I. F. Woodman was my informant.

To the 3rd x-interrogatory. I have no interest in the result of this suit, either directly or indirectly. I have no interest in the land, and never have had.

S. S. PRENTISS DANGERFIELD.

Sworn to and subscribed before me this 2d day of August 1872.

A. M. CRAMER, *U. S. Commissioner.*

160 Then came H. M. FLOYD, who, being duly sworn, answered as follows:

To the 1st interrogatory. I was acquainted with R. W. Burney and I. F. Woodman. Was not acquainted with F. O. Woodman.

To the 2d interrogatory. I never heard any conversation between R. W. Burney and I. F. Woodman.

To the 3rd interrogatory. I never heard R. W. Burney make any statements relative to the matter mentioned.

To the 4th interrogatory. To my knowledge Burney always owned the Burney property, and I never heard any one assert any title to the same prior to his death. I never heard any claim set up to said property by any other party until 1870, when I. F. Woodman was here in Delta, and came to my store and told me that he would soon be in possession of the whole property; and he told me that I could move my store to any position I might see proper. I had had some trouble with the railroad with my then location; and whatever I done would be all right, and I should not be annoyed, and he further stated that all those buildings erected by parties on the property would become his, as
161 they were built without his authority. He also stated to me in the same year that suits were pending which would put him in possession of the property. These statements were made to me at Delta, at my place of business. There were no other parties present.

To the 5th interrogatory. On one occasion, I think it was in the fall of 1870, I. F. Woodman came into the back room of my store and proposed to show me some notes and mortgages which would bind the property which he held. I refused to examine them, and told him that I was not interested. There were no other parties present. He stated that

in addition to the notes and mortgages he held, Mrs. Burney had borrowed money from him.

To the 6th interrogatory He stated to me upon one occasion, I do not recollect the date, that he had gained a suit against the property, and that he was satisfied that he would ultimately gain the suit on appeal. I knew that Woodman was engaged in litigation in this parish, and in which he manifested great interest. He was frequently here during the year 1870.

162 Cross-examined:

Answer to the 1st x-interrogatory. I. F. Woodman was my informant.

To the 2d x-interrogatory. I did not state who employed counsel.

To the 3rd x-interrogatory. I have no interest in the result of this suit. I bought a lot in Delta, a portion of the Burney property, for which I hold a warrantee title.

H. M. FLOYD.

Sworn to and subscribed before me this 2d day of August, 1872.

A. M. CRAMER,
U. S. Commissioner.

Then came A. V. BROWN, who, being duly sworn, answered as follows:

To the 1st interrogatory. I knew R. W. Burney and I. F. Woodman. I did not know F. O. Woodman.

To the 2d interrogatory. I never heard any conversations between R. W. Burney and I. F. Woodman.

To the 3rd interrogatory. I have often heard R. W. Burney state that he did not owe O. O. Woodman anything. This was at De Soto, Louisiana.

To the 4th interrogatory. At the death of R. W. Burney, the property known as the Burney property was in his name and pos-
163 session. Prior to the death of Burney I never heard any one assert any right and title to the property whatever. A short time after Burney's death, I. F. Woodman attempted to take possession forcibly of the said property, in which he was defeated.

To the 5th interrogatory. I have heard I. F. Woodman say that he was bound to gain the lawsuit which was pending for the possession of the Burney property. He claimed that he was the owner of the notes upon which the suit was brought. This statement was made at various times at the court-house. I was acting as agent for the Burney property, or rather a portion of it, and collecting rents for the same. He forbid me collecting rents unless I paid the same to him. I then told him that I would not do so unless stopped by a legal process.

To the 6th interrogatory. I know there was a suit pending in the district court, in which the title to the Burney property was involved, in which Woodman manifested great interest; and any one not knowing the contrary, would suppose him to be the plaintiff of record. I do not know who employed the counsel for plaintiff. I have every
164 reason to believe that I. F. Woodman did. He told me that if the suit was gained he would take possession of the property and oust all the parties now in possession.

Cross-examination:

Answer to 1st x-interrogatory. I can make no further answer to this

x-interrogatory than I have answered in my answer to the 4th direct interrogatory.

To the 2d x-interrogatory. I did not answer that I knew who employed counsel, but that it was my belief, from the circumstances, that I. F. Woodman did.

To the 3rd x-interrogatory. I have no interest in the result of this suit, or in the land whatever.

A. V. BROWN.

Sworn to and subscribed before me this 2d day of August, 1872.

A. M. CRAMER,
U. S. Commissioner.

Then came EZRA B. TOWNE, who, being duly sworn, answered as follows:

To the 1st interrogatory. I was acquainted with R. W. Burney and I. F. Woodman. I never saw F. O. Woodman, the son of I. F. Woodman, but once.

165 To the 2d interrogatory. I never heard any conversations between R. W. Burney and I. F. Woodman concerning the notes mentioned, but I had conversations with both separately.

To the 3rd interrogatory. I have heard R. W. Burney state that the notes referred to had been taken up by him, and that he was the owner of said notes, which conversation was verified after his death by a notarial act found among his papers transferring the notes, and mortgage based upon said notes, from O. O. Woodman to R. W. Burney. I do not remember the time and place when said statement was made. In July or August, 1862, I. F. Woodman stated to me that he or his brother's estate was largely indebted to Mr. Burney, to the amount of not less than twenty thousand dollars, and requested me to use my influence with Mr. Burney to receive money for the indebtedness, which I declined doing. Said money was confederate money.

To the 4th interrogatory. At the death of R. W. Burney, he was in possession of the property known as the "Burney" property. I always understood that the estate of O. O. Woodman had an interest in the place, but not derived through these notes. The notes were the

166 property of R. W. Burney. I never heard any claim asserted by any person to the Burney place through the notes mentioned.

To the 5th interrogatory. After the death of R. W. Burney, I. F. Woodman claimed to be the owner of the notes, from advances made to Burney during the war, and presented a claim to me amounting to more than the value of the notes, which I declined to recognise, it being for advances made for supplying the negroes after the year 1862, who, I understood, were in the employment of I. F. Woodman all the time during the time these advances were made. Mr. Woodman acknowledged to me that the notes were the property of Mr. Burney, but that, *the notes were the property of Mr. Burney, but that*, by an agreement with Burney, he had acquired them by the advances above referred to. A sale of the Burney place was made at the instance of F. O. Woodman, in 1866, on an order of seizure and sale on two of the above-mentioned , when I became the purchaser of the property, for which I paid the price of one thousand dollars. There were present at the sale G. P. Deweese, Major A. A. Bursley, the sheriff, Vallandingham,

167 myself, and others I do not now recollect. Frank O. Woodman was in the parish to attend the sale referred to, but made a mistake as to the place of sale, and was not present at the sale.

To the 6th interrogatory. I do not know who employed counsel to take out the order of seizure and sale, but supposed that I. F. Woodman, the father of F. O. Woodman, done so. Mr. I. F. Woodman was the only person I knew who took any interest in the suit or sale, except a person named Lombard, who declared that he was the attorney of Mr. Woodman, (I. F.) The only person who has manifested any interest in this suit to me has been Mr. I. F. Woodman, esq. He has frequently stated to me that he was the party in interest. I believe that he was the only party in interest.

Cross-examined:

Answer to 1st x-interrogatory. I know, of my own personal knowledge, the facts stated in answer to the 4th direct interrogatory.

To the 2d x-interrogatory. All the information I have on this subject was gained from I. F. Woodman.

To the 3d x-interrogatory. I have no interest in the result of
168 this suit personally. I claim to be the owner of one-fourth of the tract of land.

E. B. TOWNE.

Sworn to and subscribed before me this 2d day of August, A. D. 1872.

A. M. CRAMER,
U. S. Commissioner.

STATE OF LOUISIANA,
Parish of Madison:

I, A. M. Cramer, do hereby certify, that the foregoing depositions were reduced to writing as aforesaid by me, and that the same were signed as above by the witnesses in my presence, after being read over to them.

In witness whereof I hereunto set my hand and, having no seal, affix my scroll, this 2d day of August, A. D. 1872.

A. M. CRAMER, [SCROLL.]
U. S. Commissioner.

169 *Depositions of Ai Brooks and John W. May, to wit:*

The President of the United States of America to A. K. P. Knowlton, esq., of Lewiston, in the county of Androscoggin and State of Maine, a notary public, duly commissioned and acting within and for said county, greeting:

Know ye that, in confidence of your prudence and fidelity, you have been appointed, and are hereby invested with full power and authority, to examine Ai Brooks, esq., and John W. May, esq., on their corporal oaths, as witnesses in a cause depending in the circuit court of the United States for the southern district of Mississippi, in equity sitting, wherein Ezra B. Towne, administrator of R. W. Burney, is complainant, and W. A. Stone is defendant, on the part and in behalf of the complainants, upon the interrogatories annexed to this commission; and therefore you are hereby commanded that, at a certain day and place to be by you named, you do cause the said Ai Brooks and John W. May,
and there examine them on oath upon the said interrogatories;
170 and that you take such examination and reduce the same into writing and return the same annexed to this writ, closed up under

your seal, into our said circuit court, before the judges thereof, with all convenient speed.

Witness the Hon. Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said circuit court, at Jackson, in said district, this 7th day of November, A. D. 1872.

[L. S.] GEO. T. SWANN, *Clk.*

In the circuit court of the United States for the southern district of Mississippi.—In chancery.

EZRA B. TOWNE ET AL.
vs.
WILLIAM A. STONE. } N. S. 125.—In equity.

Interrogatories to be propounded to Ai Brooks, esq., and John W. May, esq., of the town of Lewiston, Androscoggin County, Maine, witnesses for the complainants in the above-styled cause:

Int. 1st. Please look upon the annexed exhibit, marked "A," and made part of this interrogatory, and give all the facts now within your knowledge and recollection touching the taking of the deposition of "Isaac Strickland," the witness whose name is mentioned in said
171 Exhibit A; who accompanied said witness, Isaac Strickland, at the time said deposition was taken; how, when, and where, and by whom were the answers of said witness prepared; what act or acts, if any, were done by Ivory F. Woodman in connection with the taking of said deposition, the production of said witness, and the preparation of said answers; and what connection or relation existed at the time said deposition was taken between said Isaac Strickland and Ivory F. Woodman?

Int. 2nd. State any and all other facts within your knowledge not already stated, which may be material to the parties in this cause, or either of them.

HARRIS AND HARRIS,
Sols. for Complts.

A true copy.

G. T. SWANN, *Clk.*

Exhibit A to int.

The President of the United States of America to Ai Brooks, esq., of Lewiston, in the county of Androscoggin, and State of Maine, a notary public duly commissioned and acting within and for said county, greeting:

Know ye that, in confidence of your prudence and fidelity, you
172 have been appointed and are hereby invested with full power and authority to examine I. Strickland on his corporal oath as a witness in a cause depending in the circuit court of the United States for the southern district of Mississippi, in equity sitting, wherein Ezra B. Towne, administrator of R. W. Burney, is complainant, and W. A. Stone is defendant, on the part of the defendant, upon the interrogatories annexed to this commission. And, therefore, you are hereby commanded that a certain day and place to be by you appointed, you do cause said I. Strickland to come before you, and then and there examine him on oath upon the said interrogatories, and that you take such examination and reduce the same to writing, and return the same annexed to this

writ, closed up under your seal into our said circuit court, before the judges thereof, with all convenient speed.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, and the seal of said circuit court, at Jackson, in said district, this 18th day of August, A. D. 1870.

[L. S.] GEO. T. SWANN, *Clk.*

173 In the United States circuit court for the southern district of Mississippi.

EZRA B. TOWNE, ADMR. OF R. W. BURNEY,
vs.
W. A. STONE.

Interrogatories to be propounded to I. Strickland, a resident of the town of Livermore, in the State of Maine, a witness for the defendant in the above-named cause.

Int. 1st. Have you ever been the holder and owner of four promissory notes of O. O. Woodman, dated about the first of November, 1857, amounting in the aggregate (of principal) to about $11,761.15c.? and if so, state what you did with the same.

Int. 2nd. Were you, or not, a holder and owner of said notes, for a valuable consideration paid or given by you?

Int. 3rd. At the time you became the holder and paid or gave such valuable consideration for them, had you or not any notice or knowledge of any previous payment or discharge thereof, or of any equities existing between previous parties to the notes?

Int. 4th. Did you receive them in the ordinary course of trade or otherwise?

Int. 5th. Were said notes or any part thereof paid to you or otherwise discharged, while you were the holder and owner of them?

SHELTON AND SHELTON, *for Deft.*

174 To Ezra B. Towne, or Harris and Harris, his solicitors:

Take notice that, ten days after the service of this notice and the foregoing interrogatories, a commission will issue from the clerk's office of the United States circuit court for the southern district of Mississippi, in chancery sitting, empowering a commissioner to be therein named to take the deposition of I. Strickland, a witness for defendant in the cause in the caption to the interrogatories mentioned. You can file cross-interrogatories if you think proper.

SHELTON AND SHELTON, *for Deft.*

We acknowledge service of the foregoing interrogatories and notice, and a copy of them delivered to us this the 8th day of August, 1870.

HARRIS AND HARRIS.

Filed August 12th, 1870.

GEO. T. SWANN, *Clk.*

In the circuit court of the United States, southern district of Mississippi.

EZRA B. TOWNE, ADMR., &C.,
vs.
WILLIAM A. STONE.

Cross-interrogatories to be propounded to I. Strickland, filed in

175 said cause upon notice of interrogatories propounded to said witness by the defendants of said cause, August 8th, 1870; said I. Strickland residing in the town of Livermore, Maine.

(The complainant first files objections as to interrogatories 2d, 3d, 4th, and 5th, in chief, and propounds the following cross-interrogatories:)

X int. 1st. From whom did you receive said notes inquired about in interrogatory-in-chief first? When, what for, how much did you pay for them, or what was the consideration you gave? Who was present; where did the assignment or transfer take place; who is the true and real owner of said notes at this time?

X int. 2nd. What was the real object, motive, and purpose of said transfer of said notes to you; were you in truth and fact really and bona fide the true and actual owner of said notes; did you pay a single dollar therefor, and are you the real owner of said notes or any part hereof?

X-int. 3rd. Did you not receive these notes in fact from I. F. Woodman, and for what purpose did you receive them? State fully all the reasons, facts, and objects of the tranfer to you. Have you
176 assigned or transferred these notes to any one? if so, to whom, and when? Are you the holder and owner of them, or who is, and how do you know?

X-int. 4th. Were you or not advised fully, before having had anything to do with these notes, of the fact that the same had been fully paid, taken up, and satisfied by R. W. Burney, and of all the reasons why the same came into the hand of Woodman and Bement, or I. F. Woodman?

HARRIS AND HARRIS,
Sol. for Complts.

Filed August 12th, 1870.

GEO. T. SWANN, *Clk.*

A true copy from the originals on file.
Teste:
[L. S.] GEO. T. SWANN, *Clk.*

I, ISAAC STRICKLAND, named in the foregoing commission, of lawful age, on oath depose and say in answer to the foregoing interrogatories and cross-interrogatories as follows, viz:

1st. To the 1st interrogatory-in-chief, I answer as follows, viz: I have. I transferred them to William A. Stone.

2nd. To the 2d, as follows, viz: I was.

3rd. To the 3rd, as follows, viz: I never had any notice of any offsett, payment, discharge, or existing equities between previous persons.

4th. To the 4th, as follows, viz: I did.

5th. To the 5th, as follows, viz: There never was any part paid.

1st. To the 1st cross-interrogatory, I answer as follows, viz: They were transferred to me by F. O. Woodman, in June, 1866; fourteen thousand seven hundred and fifty-two dollars, part money, part my acceptance; my acceptance was $4,082, 15c.

The negotiation for the notes was made through my correspondents in New Orleans, and for me; the agreement was made in New Orleans. I do not know who was there present. The transfer and assignment was made in New Orleans. I endorsed the notes to William A. Stone, to be controlled and collected as his own, he to pay me the balance after pay-

ment of his own fees and trouble, attorney's fees, and other expenses incurred in the collection of the notes.

2d. To the 2d cross-interrogatory I answer as follows, viz: As an investment for members of my family. I was. The consideration as before stated, except having since paid my acceptance $4,082, 15c. I have transferred the notes to William A. Stone.

3rd. To the 3rd cross-interrogatory as follows, viz: In point of
178 fact, received from the indorser, F. O. Woodman, for the purpose of holding, until they were paid or otherwise disposing of them. I purchased, considering them perfectly good, having personally been acquainted with O. O. Woodman in his life-time, and had confidence his estate was ample to pay. I have transferred them to William A. Stone in the month of May, 1869. I understand William A. Stone to be still the owner from these proceedings.

4th. To 4th cross-int. as follows, viz: I never was advised that R. W. Burney had paid said notes. The notes were transferred in writing to Messrs. Woodman and Bement by R. W. Burney.

ISAAC STRICKLAND.

STATE OF MAINE,
County of Androscoggin, ss:

On the 3rd day of May, in the year of our Lord eighteen hundred and seventy-one, personally came before me, the undersigned, a notary public, duly commissioned, and acting within and for the county aforesaid, at my office in Lewiston, in said county, Isaac Strickland, named in the foregoing commission, who was by me first carefully examined and
179 cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the foregoing interrogatories and cross-interrogatories. Said Strickland then made the foregoing answers to said interrogatories and cross-interrogatories in my presence, which were reduced to writing by me, and the same were then subscribed by said Strickland. This deposition is taken to be used in a cause in equity, depending in the circuit court of the United States for the southern district of Mississippi, wherein Ezra B. Towne, administrator of R. W. Burney, is complainant, and W. A. Stone is defendant, on the part of the defendant.

And the fees for taking said deposition are as follows, viz: Trav. of deponent, 42 miles; attendance of dept., 1 day, ; notary's fee for taking deposition, .

Witness my hand and notarial seal the day and year above written.

[L. S.] AI BROOKE, JR.,
Notary Public.

Exhibit A to Int.

I, JOHN W. MAY, of Auburn, in the county of Androscoggin and State of Maine, of lawful age, do testify and depose, in answer to the interrogatories and cross-interrogatories contained in the commission hereunto prefixed.

Ans. to int. 1. I remember that some time ago, I think in the
180 spring of 1871, or about that time, a man by the name of Woodman came to my office in Lewiston with a commission to take the deposition of Isaac Strickland, of Livermore, in this county. The commission purported to have issued from the United States court in Mississippi, and contained interrogatories annexed. Mr. Woodman desired me to take the deposition of Mr. Strickland under the commission as a notary public. I told him my commission had expired, but I could pre-

pare a caption, and he could take the witness before Mr. Ai Brooks, cashier of the National Bank of Lewiston, who was a notary public, and would take the deposition for him. My impression is that Mr. Strickland was not with Woodman at this time, but that Woodman said he would come here with Strickland in a day or two and have the deposition taken. I think I went to see Mr. Brooks to ascertain if he would take the deposition. A few days subsequent to this, according to my best recollection, Mr. Woodman came here again, and I think Mr. Strickland, the witness, was with him, and I think he had the answers of Mr. Strickland, the deponent, written out on a
181 separate sheet or sheets of paper, ready to be signed and annexed. I cannot state in whose handwriting the answers were written. Mr. Woodman, I think, said they were ready to be signed, and desired me to prepare a caption, which I did. I might also have copied the answers, but do not remember that I did copy them. I think I told Woodman that Mr. Brooks should administer the oath to the deponent, and then read over the questions and answers to him, and if they were all right, have him sign them, and that Mr. Brooks should then sign the caption and affix his seal as notary. I do not remember of going before Mr. Brooks and being present when the deposition was taken, although I might have been there. I think Mr. Woodman took charge of the deposition after it was taken. He paid me for my services. I was not personally acquainted with this Mr. Woodman when he first came to my office. I understood, however, either from him or through some other source, that he was related in some way to Strickland. I afterwards learned he was Strickland's son-in-law.

Ans. to int. 2d. I know of no other facts material to the parties,
182 and my recollection is not distinct as to all that transpired at the time referred to in my answer to the 1st interrogatory. I have stated the facts as near as I can now remember. I have examined Exhibit A, hereunto annexed, and think it relates to the same subject-matter of the deposition then taken, but do not remember the names of the parties to the suit.

JOHN W. MAY.

I, AI BROOKS, of Lewiston, in the county of Androscoggin and State of Maine, of lawful age, do testify and depose in answer to the interrogatories in the commission hereto prefixed.

Ans. to int. 1st. I have examined Ex. A, hereto annexed, and remember of having taken the dep. of one Isaac Strickland, of Livermore, some time in the spring of 1871, at the request of J. W. May, esq. At the time it was taken I think no one was present except Mr. Strickland. It was taken at my office at the First National Bank of Lewiston. Mr. Strickland came in with the commission, and with his answers to the intys. therein contained, written out and ready to be signed. I did not know in whose handwriting the answers were. After having
183 administered the usual oath to Mr. S., I then read the questions and answers written to Mr. Strickland. He assented to them as correct. I then certified the caption, and affixed my notarial seal. I think Mr. Strickland took the deposition after it was completed. With regard to the Mr. Woodman mentioned in the deposition, I have no knowledge of ever having seen him. I think the caption was in Mr. May's handwriting. I know of no other facts relating to the matter.

AI BROOKS.

STATE OF MAINE,
County of Androscoggin, ss:

On the 19th day of November, in the year 1872, personally came before me, the undersigned, a notary public duly commissioned and acting within and for the county aforesaid, at my office in Lewiston, in said county, Ai Brooks and John W. May, named in the foregoing commission, who were by me first carefully examined, and cautioned, and sworn to testify to the truth, the whole truth, and nothing but the truth in answer to the foregoing interrogatories and cross-interrogatories. Said Brooks and May then made the foregoing answers to said inter-
184 rogatories and cross-interrogatories in my presence, which were reduced to writing by me, and the same were then subscribed by said Brooks and May. Their depositions were taken, to be used in a cause in equity, depending in the circuit court of the United States for the southern district of Mississippi, wherein Ezra B. Towne, administrator of R. W. Burney, is complainant, and W. A. Stone is defendant, on the part of the defendant; and the fees for taking said depositions are as follows, viz: Ai Brooks, 65 cts.; John W. May, 65 cts.; notary's fee for taking dep's, $5.00=$6.30.

Witness my hand and notarial seal, the day and the year above written.

[L. S.] A. K. P. KNOWLTON,
Notary Public.

Copies of notes, and agreement of I. F. Woodman in reference thereto; also receipt of Woodman and Bement, to wit:

$3,000.] NEW ORLEANS, *Nov.* 1*st*, 1857.

On 15th day of Feb'ry next, after date, I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., three thousand dollars, value rec'd, with interest at the rate of eight per
185 cent. per annum from maturity until final payment.

(S'n'd) O. O. WOODMAN.

(Written across the face:) Ne varietur.

New Orleans, Nov. 16, 1857.

JAMES GRESHAM, *N. P.*

Endorsed: O. O. WOODMAN.*

* NEW ORLEANS, *Nov.* 18, 1857.—Received on within two hundred and nine dollars.

(S'n'd) BROWN, JOHNSTON & CO.,
Per MORRIS FISHER.

Protested at maturity.

3,000.] NEW ORLEANS, *Nov.* 1*st*, 1857.

Five months after date, I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., three thousand dollars, value rec'd, with interest at the rate of eight per cent. per annum from maturity till final payment.

(S'n'd) O. O. WOODMAN.

(Endorsed:) O. O. WOODMAN.
Protested at maturity.

$2,761 15/100.] NEW ORLEANS, *November 1st*, 1857.

On the 15 day of April, after date, I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., twenty-seven hundred and sixty-one dollars 15/100, value rec'd, with interest at the rate of eight per cent. per annum from maturity until final payment.

(S'gn'd) O. O. WOODMAN.

(Endorsed:) O. O. WOODMAN.
Protested at maturity.

186 $3,000.] NOVEMBER 1, 1857.

On the 15 day of March next, after date, I promise to pay to the order of myself, at the office of Brown, Johnston & Co., N. O., three thousand dollars, with interest after maturity, at the rate of eight per cent. per annum after maturity until final payment.

(S'n'd) O. O. WOODMAN.

(Endorsed:) O. O. WOODMAN.
Protested at maturity.

The foregoing *is* copies of four notes which I have rec'd of R. W. Burney, esq., being notes that he purchased of Brown, Johnston & Co., and which we purchased of said Burney, and we agree, upon final settlement, to pay to said Burney whatever may be due him on said notes, on demand, with the same rate of interest, eight per cent., until final payment, allowing us upon our payment corresponding interest from the time so paid.

WOODMAN AND BEMENT.

Attest:
B. HARDAWAY.
WM. W. GIBSON.

In consideration of the above sale and transfer unto Woodman and Bement, I agree to keep and hold for the benefit of said Burney,
187 until final payment, the same security upon the estate, made to secure the same notes, or a corresponding security, until final payment by W. and Bement.

I. F. WOODMAN.

Attest:
W. W. GIBSON.
B. HARDAWAY.

Filed May 19, 1873.

GEO. T. SWANN, *Clk.*

Receipt of Brown and Johnston, executed to R. W. Burney, for notes purchased by Burney from said Brown, Johnston & Co.

Received of R. W. Burney thirteen thousand and ninety-five dollars and 83 cents, in full, for the mortgage given by O. O. Woodman to Brown, Johnston & Co., of New Orleans, executed before James Graham, notary public, 18 November, 1857, the balance of the notes specified in said mortgage unpaid being transferred to said R. W. Burney by said Brown, Johnston & Co.

BROWN AND JOHNSTON,
By A. H. ARTHUR.

November 4, 1859.

188 And, on the final hearing of this cause, the following depositions were offered and read to the court in behalf of the defendant, W. A. Stone, to wit:

Deposition of Isaac Strickland.

The President of the United States of America to Ai Brooks, esq., of Lewiston, in the county of Androscoggin and State of Maine, a notary public duly commissioned and acting within and for said county, greeting:

Know ye that, in confidence of your prudence and fidelity, you have been appointed and are hereby invested with full power and authority to examine I. Strickland on his corporal oath, as a witness in a cause depending in the circuit court of the United States for the southern district of Mississippi, in equity sitting, wherein Ezra B. Towne, administrator of R. W. Burney, is complainant, and W. A. Stone is defendant, on the part of the defendant, upon the interrogatories annexed to this commission. And, therefore, you are hereby commanded that a certain day and place to be by you appointed, you to cause the said I. Strickland to come before you, and then and there examine him on oath upon the said interrogatories, and that you take such examination and reduce the same into writing, and return the same annexed to this writ,
189 closed up under your seal, into our said circuit court, before the judges thereof, with all convenient speed.

Witness the Hon. Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of said circuit court, at Jackson, in said district, this 18th day of August, A. D. 1870.

[L. S.] GEO. T. SWANN, *Clerk.*

In the United States circuit court for the southern district of Mississippi, sitting in chancery.

EZRA B. TOWNE, ADMR., &C., OF R. W. BURNEY,
vs.
W. A. STONE.

Interrogatories to be propounded to I. Strickland, a resident of the town of Livermore, in the State of Maine, a witness for defendant in the above-named cause.

Interrogatory 1st. Have you ever been the holder and owner of four promissory notes of O. O. Woodman, dated about the 1st of November, 1857, amounting in the aggregate (of principal) to about $11,761.15? And, if so, state what you did with the same.

Interrogatory 2d. Were you or not a holder and owner of said notes for a valuable consideration paid or given by you?

Interrogatory 3rd. At the time you became the holder and paid or gave such valuable consideration for them, had you or not any
190 notice or knowledge of any previous payment or discharge thereof, or of any equities existing between previous parties to the notes?

Interrogatory 4th. Did you receive them in the ordinary course of trade or otherwise?

Interrogatory 5th. Were said notes or any part thereof paid to you or otherwise discharged while you were the holder and owner of them?

SHELTON AND SHELTON, *for Deft.*

To Ezra B. Towne, admr., or Harris and Harris, his solicitors:

Take notice that ten days after the service of this notice and the foregoing interrogatories, a commission will issue from the clerk's office of the United States circuit court for the southern district of Mississippi, in chancery sitting, empowering a commissioner to be therein named to take the deposition of I. Strickland, a witness for defendant, in the cause in the caption to the interrogatories mentioned. In the mean time you can file cross-interrogatories if you think proper.

SHELTON AND SHELTON, *for Deft.*

191 We acknowledge service of the foregoing interrogatories and notice, and a copy of them delivered to us this the 8th day of August, 1870.

HARRIS AND HARRIS.

Filed August 12, 1870.

GEO. S. SWANN, *Clk.*

In the circuit court of the United States, southern district of Mississippi.

EZRA B. TOWNE, ADMR., &C.,
vs.
W. A. STONE.

Cross-interrogatories to be propounded to I. Strickland, filed in said cause upon notice of interrogatories propounded to said witness by the defendant of said cause, August 8th, 1870, said I. Strickland residing in the town of Livermore, Maine.

The complainants first files objections as to interrogatories 2d, 3d, 4th, and 15th, in chief, and propound the following cross-interrogatories:

X-inty. 1st. From whom did you receive said notes enquired about in interrogatory-in-chief first; when; what for; how much did you pay for them, or what was the consideration you gave; who was present; who is the true and real owner of said notes at this time?

X-inty. 2d. What was the real object, motive, and purpose of said transfer of said notes to you? Were you, in truth and fact,
192 really and bona fide the true and actual owner of said notes? Did you pay a single dollar therefor; and are you the real owner of said notes, or any part thereof?

X-inty. 3rd. Did you not receive these notes, in fact, from I. F. Woodman, and for what purpose did you receive them? State fully all the reasons, facts, and objects of the transfer to you. Have you assigned or transferred these notes to any one? If so, to whom, and when? Are you the holder and owner of them, or who is, and how do you know?

X-int. 4th. Were you or not advised fully, before having had anything to do with these notes, of the fact that the same had been fully paid, taken up, and satis by R. W. Burney, and of all the reasons why the same came into the hands of Woodman and Bement, or I. F. Woodman.

HARRIS AND HARRIS,
Sols. for Complts.

Filed Aug. 12th, 1870.

GEO. T. SWANN, *Clerk.*

A true copy from the originals on file.
Teste.

GEO. T. SWANN, *Clk.*

I, Isaac Strickland, named in the foregoing commission, of law-
193 ful age, on oath depose and say, in answer to the foregoing interrogatories and cross-interrogatories, as follows, viz:

1st. To the 1st interrogatory-in-chief I answer as follows, viz: I have. I transferred them to William A. Stone, esq.

2d. To the 2nd as follows, viz: I was.

3rd. To the 3rd as follows, viz: I never had any notice of any offset, payment, discharges, or existing equities between previous persons.

4th. To the 4th as follows, viz: I did.

5th. To the 5th as follows, viz: There never was any part paid.

1st. To the 1st cross-interrogatory I answer as follows, viz: They were transferred to me by F. O. Woodman in June, 1866; fourteen thousand seven hundred and fifty-two dollars; part money, part my acceptance. My acceptance was $4,082.15. The negotiation for the notes was made through my correspondents in New Orleans, and for me. The assignment was made in New Orleans. I do not know who was there present. The transfer and assignment was made in New Orleans. I indorsed the notes to Wm. A. Stone, to be controlled and collected as his own, he to pay me the balance after payment of his own fees
194 and trouble, attorney fees, and any other expenses incurred in the collection of the notes.

2nd. To the 2nd cross-interrogatory I answer as follows, viz: As an investment for members of my family. I was. The consideration as before stated, except having since paid my acceptance, $4,082.15. I have transferred the note to Wm. A. Stone.

3rd. To the 3rd cross-int. as follows, viz: In point of fact, received from the indorser, F. O. Woodman, for the purpose of holding until they were paid, or otherwise disposing of them. I purchased considering them perfectly good, having personally been acquainted with O. O. Woodman in his life-time, and had confidence his estate was ample to pay. I have transferred them to Wm. A. Stone in the month of May, 1869. I understand Wm. A. Stone to be still the owner from these proceedings.

4th. To the 4th cross-int. as follows, viz: I never was advised that R. W. Burney had paid said notes. The notes were transferred in writing to Messrs. Woodman and Bement by R. W. Burney.

ISAAC STRICKLAND.

STATE OF MAINE,
County of Androscoggin, sct:

195 On the 3rd day of May, in the year of our Lord eighteen hundred and seventy-one, personally came before me, the undersigned, a notary public, duly commissioned and acting within and for the county aforesaid, at my office in Lewiston, in said county, Isaac Strickland, named in the forgoing commission, who was by me first carefully examined and cautioned, and sworn to testify to the truth, the whole truth, and nothing but the truth, in answer to the foregoing interrogatories and cross-interrogatories. Said Strickland then made the foregoing answers to said interrogatories and cross-interrogatories in my presence, which were reduced to writing by me and the same were then subscribed by said Strickland. This deposition is taken to be used in a cause in equity depending in the circuit court of the United States for the southern district of Mississippi, wherein Ezra B. Town, administrator of R. W. Burney, is complainant, and W. A. Stone is defendant, on the part of the defendant. And the fees for taking said deposition

are as follows, viz: trav. of deponent, 42 miles, ; attendance of deponent, 1 day, ; notary's fees for taking deposition, .

Witness my hand and notarial seal the date and the year above written.

[L. S.] AI. BROOKS, JR.,
Notary Public.

196 *Deposition of A. H. Bement.*

The President of the United States of America to Amasa J. Parker, jr., U. S. commissioner in and for the N. D. of N. Y., Albany, N. Y., greeting:

Know ye that, in confidence of you' prudence and fidelity, you have been appointed and are hereby invested with full power and authority to examine A. H. Bement on his corporal oath as a witness in a cause depending in the circuit court of the United States for the southern district of Mississippi, in equity sitting, wherein Ezra B. Towne, administrator of R. W. Burney, is complainant, and W. A. Stone is defendant, on the part of the defendant, upon the interrogatories annexed to this commission; and, therefore, you are hereby commanded at a certain day and place, to be by you appointed for that purpose, you do cause the said A. H. Bement to come before you, and then and there examine him on oath touching the said interrogatories, and that you take such examination and reduce the same into writing, and return the same annexed to this writ, closed up under your seal, into the said cir-
197 cuit court at Jackson, in said district, before the judges thereof, with all convenient speed.

Witness the Hon. Salmon P. Chase, Chief-Justice of the Supreme Court of the United States, and the seal of our said court, hereto affixed, at Jackson, in said district, this 18th day of August, A. D. 1870.

[L. S.] GEO. T. SWANN, *Clerk.*

In the United States circuit court for the southern district of Mississippi, sitting in chancery.

EZRA B. TOWNE, ADMR. OF R. W. BURNEY,
vs.
W. A. STONE.

Interrogatories to be propounded to A. H. Bement, a resident of the city of New York, a witness for defendant in the above-named cause.

Interrogatory 1. Who were the members of Woodman and Bement, formerly doing business in New Orleans, in the State of Louisiana, and between what dates was said firm doing business in New Orleans?

Interrogatory 2d. Had that firm any dealings with R. W. Burney, then a resident of Madison Parish, Louisiana, and, if so, state how balances stood between said Burney and said firm, at the time said
198 firm terminated its partnership dealings; how much, if anything, said Burney owed said firm?

Interrogatory 3d. Please state what you know about said Burney's transferring at any time to Woodman and Bement four notes of O. O. Woodman, amounting to about $11,761.15, dated Nov. 1st, 1867, being four of the notes originally secured to Brown, Johnston & Co. by a mortgage made by O. O. Woodman; especially state the purpose for which

they were transferred, and on what account and for what consideration, and, if practicable, the date of the transfer.

Int. 4th. Were these notes ever credited to Burney on his indebtedness to Woodman and Bement? If so, at what date, and how did balances stand between said Burney and Woodman and Bement, after said notes were credited to Burney?

Interrogatory 5th. At the time said notes were credited to Burney, did they have thereon any endorsement by Burney; if so, what was that endorsement?

SHELTON AND SHETON, *for Deft.*

To Ezra B. Towne, admr., &c., or Harris and Harris, his solicitors:

Take notice that ten days after the service of this notice and
199 the foregoing interrogatories, a commission will issue from the office of the clerk of the circuit court of the United States for the southern district of Mississippi, sitting in chancery, empowering a commissioner, therein to be named, to take the deposition of A. H. Bement in the city of New York, by the foregoing interrogatories. In the mean time, you can file cross-interrogatories if you think proper.

SHELTON AND SHELTON, *for Deft.*

Filed Aug. 12th, 1870.

GEO. T. SWANN, *Clerk.*

In the circuit court of the United States for the southern district of Mississippi.

EZRA B. TOWNE ET AL.
vs.
W. A. STONE.

Cross-interrogatories in said cause filed, to be propounded to A. H. Bement, a resident of the city of New York, a witness for the defendant; said cross-interrogatories being herein filed upon notice of interrogatories propounded to said witness by said defendant, August 8th, A. D. 1870.

Cross-interrogatory first. Where are the books of Woodman and Bement; in whose keeping, care, or custody; or where were said books at the time you last had knowledge of them?

200 X-int. 2d. If you say said R. W. Burney was indebted to said Woodman and Bement, when did said indebtedness commence, up to what time continued, what was the amount of the indebtedness, for and on account of what incurred; and is your statement of the amount from recollection or from an examination of said books?

X-int. 3rd. If you say the notes enquired about in interrogatory-in-chief 3rd were assigned or transferred by Burney to Woodman and Bement, state the time or date of the transfer, and state fully the exact, definite, and positive agreement and understanding between Burney and I. F. Woodman, as to said transfer to Woodman and Bement, and the whole of the agreement between the parties thereto, at that time, and state fully the reasons, causes, and motives which induced, influenced, or caused said Burney to make said transfer, and further, why the account with Woodman and Bement was made or placed against said Burney, and why the credit was given to Burney on said account for the amount of said notes. Who was the real, true, and bona fide owner of said notes?

X-int. 4th. What was the motive, object and purpose of the endorsement of said notes to Woodman and Bement? State it fully, and all the reasons which led to said endorsement.

201 X-int. 5th. Who was Frank O. Woodman? To whom did Woodman and Bement transfer or assign said notes; what for; when; for what consideration? State fully now, what was the reason, and why said notes were assigned or transferred to said F. O. Woodman. Who did it, I. F. Woodman or yourself?

X-int. 6th. Notwithstanding all said transfers and endorsements, assignments, &c., aforesaid, as to said Woodman and Bement, and as to said F. O. Woodman, and his assigns, who was truly, really, and actually the owner of said notes?

HARRIS AND HARRIS.

Filed Aug. 12th, 1873.

GEO. T. SWANN, *Clerk.*

A true copy from the originals.
Teste:

GEO. F. SWANN, *Clerk.*

Be it remembered that, by virtue of the commission hereto annexed, in a suit now pending in the United States circuit court, wherein Ezra B. Towne, administrator of Robert W. Burney, is plaintiff, and William A. Stone is defendant, I, Amasa J. Parker, jr., a commissioner of the circuit court of the United States for the northern district of New

202 York, duly appointed in accordance with the acts of Congress of the United States of America, and empowered to administer oaths, take acknowledgments of bail, &c., &c., have, this eleventh (11) day of May, A. D. 1871, at my office, No. 55 State street, in the city of Albany, Albany County, in the northern district of New York, having given no notice to either party to this suit, and having strictly conformed to the requirements and restrictions of law relating to such commissions as aforesaid, proceeded to examine Adrian H. Bement, formerly of the city of New York, in said State of New York, and now a resident of New Lebanon, Columbia County, in said State, the mentioned and described in said commission. And I do further certify that the said Adrian H. Bement, being by me carefully examined, cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, saith in answer to the several interrogatories and cross-interrogatories annexed to said commission, as follows:

First. To the first interrogatory he saith: The members of the firm of Woodman and Bement were Ivory F. Woodman and Adrian H. Bement. Said firm commenced business in New Orleans, La., in November, 1859, and did not finally close our business until July or August, 1866.

203 Second. To the second interrogatory he saith: Yes, they had dealings with said R. W. Burney. R. W. Burney was indebted February 1, 1864, to said firm of Woodman and Bement for eighteen thousand two hundred and seventy-seven $\frac{94}{100}$ ($18,277.94,) less sixteen thousand eight hundred and seventy-four dollars, ($16,874,) being the amount, with interest, of four mortgage-notes placed to the credit of R. W. Burney.

Third. To the third interrogatory he saith: The said notes were transferred to Woodman and Bement by R. W. Burney, being the same credited as in my answer to second interrogatory. I cannot state the exact date of transfer. It must have been before August, 1865. I know of no purpose except to be placed to the credit of R. W. Burney.

Fourth. To the fourth interrogatory he saith: They were credited to R. W. Burney. The balance was fourteen hundred and three $\frac{94}{100}$, ($1,403.94,) as per February 6, 1864, at the time which I understood the transfer to have been made. The exact date I cannot state.

Fifth. To the fifth interrogatory he saith: They were endorsed to Woodman and Bement, or their order, with securities, by R. W.
204 Burney.

In answer to the cross-interrogatories annexed to said commission the said witness, Adrian H. Bement, answered as follows:

First. To the first cross-interrogatory he saith: Said books are in Albany, New York, now in my charge.

Second. To the second cross-interrogatory he saith: Said indebtedness of R. W. Burney commenced in 1860 and continued until 1865. The amount prior to February 1st, 1864, was $18,277 $\frac{94}{100}$. It was incurred on account of drafts drawn by R. W. Burney on Woodman and Bement and paid by them. Also, orders and receipts paid said Burney on his account. My statement is part from recollection and part from books, as well as from an examination of original drafts and receipts from R. W. Burney.

Third. To the third cross-interrogatory he saith: I cannot state the exact date they were transferred. It must have been before August 1, 1865. I know it was done before August 1, 1865. I know of no agreement except to be credited to R. W. Burney for his indebtedness to Woodman and Bement. I know of no other understanding or agreement between I. F. Woodman and R. W. Burney. I know of no
205 other cause or motive for said credit. Because of his individual drafts and orders paid by Woodman and Bement, and were charged to Burney. The credit was given to Burney because the notes were transferred by R. W. Burney to Woodman and Bement, and to be placed to his credit. Woodman and Bement were the owners, from R. W. Burney, of said notes, and they were afterward transferred by Woodman and Bement to F. O. Woodman.

Fourth. To the fourth interrogatory he saith: These notes were endorsed to Woodman and Bement, to be placed to the credit of R. W. Burney, on his indebtedness to said Woodman and Bement.

Fifth. To the fifth cross-interrogatory he saith: Frank O. Woodman was a son of I. F. Woodman. The notes were transferred by Woodman and Bement to F. O. Woodman for the amount of notes and interest. I cannot state the exact date. The notes were transferred to said F. O. Woodman, for the considerations above stated, being the amounts of notes, with interest. My partner, I. F. Woodman, made the transfer for firm of Woodman and Bement on notes to F. O. Woodman, and I made the entries on the books.

Sixth. To the sixth and last cross-interrogatory he saith:
206 Brown, Johnston & Co., of New Orleans, were the true and real owners of said notes, until they sold said notes to R. W. Burney. R. W. Burney was the true and real owner of said notes until he sold them to Woodman and Bement. Woodman and Bement were the owners until they sold them to F. O. Woodman. I do not know the present owners.

A. H. BEMENT.

Witness:
AMASA J. PARKER, JR.

And I do further certify that the preceding deposition was reduced to writing by me and signed by Adrian H. Bement in my presence, and

that I am not of counsel or attorney for either of the parties to the suit, nor am I interested in the event thereof.

Witness my hand and seal this eleventh (11) day of May, A. D. 1871.

[L. S.] AMASA J. PARKER, JR.,
United States Commissioner in and for the
N. D. of New York, Albany, New York.

207 On the 12th day of February, 1873, the following agreement, as to exhibits to the answers of defendant, was filed herein, to wit:

E. D. TOWNE ET AL.
vs.
W. A. STONE ET AL.

In the United States circuit court, southern district of Mississippi.

In this case it is admitted that the several documents exhibited by defts., with their answers filed in said cause and purporting to have been made by R. W. Burney, are genuine documents, and written or signed by Burney, as they purport to be, subject only to objections as to competency under the issue presented.

SHELTON AND SHELTON,
For Defendants.
HARRIS AND HARRIS, AND YERGERS,
Sols. for Compl'ts.

Filed February 12, 1873.

GEO. T. SWANN, *Clerk.*

And now afterwards, to wit, on the 27th day of May, A. D. 1873, the same being a day in the term of our said circuit court of the United States for southern district of Mississippi, in the fifth judicial
208 circuit, begun and held in the court-room at Jackson, in said State and district, on the 1st Monday and 5th day of May, A. D. 1873, the following final decree was rendered by said court in this cause, to wit:

EZRA B. TOWNE ET ALS.
vs. 125. N. S.
WILLIAM A. STONE.

Be it remembered that this cause came on to be finally heard upon the bill, exhibits, answers, replications, proceedings had and proof taken, and, after argument heard and due consideration had, the court is of opinion that the jurisdiction of the said circuit court in the confession of the judgment referred to in the bill was attempted to be had to enable Ivory F. Woodman to effect and carry out a scheme against equity and good conscience, and to defeat and defraud the complainants. It is therefore ordered and decreed that the judgment of the circuit court of the United States for the southern district of Mississippi, rendered on the 26th day of May, A. D. 1869, in a certain cause therein pending, wherein William A. Stone was plaintiff, and the said Ivory F.
209 Woodman, administrator, with the will annexed, of Oliver O. Woodman, deceased, was defendant, for the sum of twenty-one thousand eight hundred and sixty-eight $\frac{35}{100}$ dollars, be, and the same is hereby, vacated, set aside, and held to be absolutely null and void. But as the heirs at law of Robert W. Burney are in possession of the mort-

gaged property set out in the pleadings, the decree will be without prejudice to either party in any proceedings they may institute in Louisiana in relation to the notes referred to in the bill. And it is further ordered, adjudged, and decreed that the complainants have and recover of the defendants the costs of this cause, to be taxed, for which execution may issue, &c.

Ordered, adjudged, and decreed this 27th day of May, A. D. 1873.
R. A. HILL, *Judge.* [SEAL.]

And on the 28th day of May, 1873, another day in the term of said court, begun and held as aforesaid, on the 1st Monday and 5th day of May, 1873, the following order, granting an appeal in this cause, was made by said court, and entered on the minutes thereof, to wit:

210 E. B. TOWNE ET AL.
vs.
W. A. STONE.

Comes the defendant, and in open court, and asks for an appeal to the Supreme Court of the United States, to the next regular term of that court, which appeal is granted by the court, without supersedeas, upon the said defendant's giving bond in the sum of one thousand dollars, with two sureties, payable to the complainants, conditioned to pay all costs in this cause, whether in this court or in the said Supreme Court, that may be finally awarded against him; such bond and sureties to be approved by the clerk of this court. And said Stone is allowed thirty days within which to make and file said bond in this cause.

And on the 2d day of June, A. D. 1873, the following appeal-bond was filed in this cause, in the office of the clerk of said court, to wit:

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Know all men by these presents that we, William A. Stone, W. H. Tribette, and John T. Simpson are held and firmly bound unto
211 Ezra B. Towne, administrator of Robert W. Burney, deceased; Amanda McDonough and her husband, John McDonough; Leilla Felt, and her husband, Albert T. Felt; Matilda T. Burney, Anna V. Burney, Mary E. Burney, and Minnie Burney, in the penal sum of one thousand dollars, for the payment of which we hereby bind ourselves, our heirs, executors, and administrators. Witness our hands and seals this the 28th day of May, 1873.

The condition of the above obligation is such that, whereas, in a certain chancery suit in the United States circuit court for the southern district of Mississippi, sitting in chancery, wherein the aforesaid obligees are complainants, and the said William A. Stone is defendant, a final decree was rendered by the court on the 27th day of May, 1873, in favor of the complainants against the said William A. Stone, defendant, and said Stone, feeling himself aggrieved by said final decree, has prayed for an appeal thereon to the Supreme Court of the United States, which appeal has been granted, returnable to the next regular term of said Supreme Court, to be held at Washington City, in the District of
212 Columbia, upon the execution of this bond.

Now, therefore, if the said William A. Stone, in case he fail in prosecuting said appeal to success and reversal of said decree, shall

well and truly pay all costs of said cause in the said circuit court and in said Supreme Court that may be finally awarded and adjudged against him, then this bond to be void; otherwise in full force and effect.

WM. A. STONE. [SEAL.]
W. H. TRIBETTE. [SEAL.]
JOHN T. SIMPSON. [SEAL.]

UNITED STATES OF AMERICA,
Southern District of Mississippi:

This day personally appeared before me, the undersigned, clerk of the circuit court of the United States for the southern district of Mississippi, and a chancery commissioner of said court, Wm. H. Tribette, one of the securities who has signed the foregoing bond, who, being by me duly sworn, on oath says that over and above the amount of his just debts, legal liabilities, and statutory exemptions, he is worth and has in his possession visible property, subject to levy and sale by execution, property worth more than one thousand dollars.

W. H. TRIBETTE.

213 Sworn to and subscribed before me this May 28, 1873.

GEO. T. SWANN, *Clk.*

UNITED STATES OF AMERICA,
Southern District of Mississippi:

This day personally appeared before me, the undersigned, United States commissioner for the southern district of Mississippi, John T. Simpson, one of the above securities who has signed the foregoing bond, who, being by me duly sworn, on oath says that over and above the amount of his just debts, legal liabilities, and statutory exemptions, he is worth and has in his possession visible property, subject to levy and sale by execution, property worth more than one thousand dollars.

JOHN T. SIMPSON.

Sworn to and subscribed before me this 30th day of May, 1873.

J. C. JOHNSTON,
U. S. Commissioner.

Filed and approved this 2d June, A. D. 1873.

GEO. T. SWANN, *Clk.*

214 In the circuit court of the United States for the southern district of Mississippi, fifth judicial district.

I, George T. Swann, clerk of said court, do hereby certify that the preceding (217) two hundred and seventeen pages contain a full, true, and perfect transcript of all the papers filed, and process and proceedings had, and the orders and final decree rendered in and by said court in the cause therein lately pending in equity, wherein Ezra B. Towne, admr. of R. W. Burney, deceased, and others, were complainants, and William A. Stone was defendant, No. 125, new series, together with the order granting an appeal therein, and the appeal-bond filed and approved therein, as the same remain of record and on file in my office.

In testimony whereof I hereunto subscribe my name and affix the seal of said court at office at Jackson, in said State and district, this 23rd day of August, A. D. 1873.

[SEAL.] GEO. T. SWANN, *Clerk.*

$57.00. August 21, 1873.—Rec'd of W. A. Stone, appellant, fifty-seven dollars fee for transcript of record.

GEO. T. SWANN, *Clk.*

(Indorsement on cover:) No. 142. William A. Stone, appellant, vs. Ezra B. Towne, admr. of Robert W. Burney, dec'd, Amanda McDonough & her husband, John McDonough, Leilla Felt & her husband, Albert T. Felt, Matilda T. Burney, Anna V. Burney, Mary E. Burney, and Minnie Burney. S. Mississippi C. C. U. S. Filed 27th January, 1874.

IN THE

SUPREME COURT

OF THE

UNITED STATES.

WM. A. STONE,
Appellant,

vs.

EZRA B. TOWNE, *et al.*

APPEAL FROM THE CIRCUIT COURT SOUTHERN DISTRICT OF MISSISSIPPI.

ARGUMENT FOR APPELLANT.

STATEMENT OF CASE.

On the 1st of November, 1857, one O. O. Woodman made his four prommissory notes, payable to his own order, three for $3000, two of them due on the 15th of February and March respectively thereafter, and one in five months, and the other for $2061.15, due 15th of April, 1858. These notes were dated at New Orleans, and made payable at the office of Brown, Johnston & Co., in that city, with 8 per cent. interest, and were endorsed in blank by the said Woodman. They passed by regular transfer, and as we claim, in the usual course of business, until they came to the hands and ownership of appellant, the respondent in this action. Woodman died in August, 1859, and one Tickel was appointed testementary

executor, who soon thereafter departed for Europe, leaving to one Ivry F. Woodman special power to act as administrator of said estate.

On the 26th of May, 1869, the appellant, holding these notes by regular transfer, exhibited his declaration in the District Court for the Southern District of Mississippi, against said Ivry F. Woodman, as administrator, as aforesaid, asking judgment for the amount due on said notes, showing that said Ivry F. was then administrator *cum testamento annexo* to him granted by the proper Court of Warran county in that State. On the same day the administrator entered an appearance and consented to judgment, which was accordingly entered for the sum of $21,868. 5, to be levied of the goods, &c., in his hands, &c.

Soon thereafter appellant exhibited his bill in the Thirteenth District Court of the State of Louisiana, setting forth the recovery of this judgment, as also that certain lands describing them, held by the estate of one Robert W. Burney, by reason of the matters and things in said bill stated, should be subjected to the payment of this judgment, and praying that the administrator and heirs of said Burney (who departed this life in 1866,) be decreed to reconvey the same to the executor of the succession of said O. O. Woodman, &c.

July 6, 1870, Towne, as administrator and the other plaintiffs herein as heirs of said Burney, filed their bill of complaint in the District Court of the Southern District of Mississippi, asking to set aside the judgment of May 26th, 1869, and for an injunction, &c. After this, on the 11th of April, 1871, there was filed an amended and supplemental bill, and as the issue was joined and case heard on this, we state its substance, as therefrom the Court will be able to see the precise and only grounds upon which relief is claimed. (Trans. 38 et seq.)

After setting out the commencement of the suit by Stone against the administrator of O. O. Woodman, deceased, on

the four promissory notes, and the rendition of the judgment upon the appearance and confession of said administrator, (as hereinbefore shown) it is alleged that the notes were not exhibited with the declaration in that case, nor as said orators believe, were they ever probated against the estate of O. O. Woodman. It is then averred that the estate of said Robert W. Burney, which these orators represent, and in which they claim to hold the entire interest, consists of certain real estate in the state of Louisiana (describing it) of about one thousand acres, being the same property which Stone proposed, by his bill filed in the Thirteenth Louisiana District Court to subject to the payment of the debts of said O. O. Woodman, deceased; that said O. O. Woodman and Burney, in 1848, were intimate friends; that at that time they entered into co-partnership, by which Burney was to cultivate said land; that Woodman conveyed one-half of said lands to Burney; that on the 16th of November, 1857, Woodman being indebted to Brown, Johnston & Co., made the notes heretofore referred to, as also two other notes, and secured the same by mortgage on said land. It is then alleged that soon after this O. O. Woodman departed this life; that Tickel was appointed testamentary executor, who departed for Europe at once, leaving the said Ivry F. Woodman his agent, with full power, &c., who took possession of all effects and administrated the property, &c.; that O. O. Woodman soon after their execution paid the two other notes, but neglected to have said mortgage cancelled to that extent; that I. F. Woodman found them among the papers of the estate, and caused suit to be brought on the same in the name of his son, F. O. Woodman; that he virtually confessed judgment on the same long after they had been proscribed by the laws of Louisiana.

It is further averred that soon after the death of O. O. Wordman, as these orators are informed and believe, Burney purchased the four outstanding notes made by said O. O. Woodman from Brown, Johnson & Co., the holders thereof

and became subrogated to all their rights under the mortgage, that Burney instituted his suit in the second district of Orleans and obtained a decree that the land should be conveyed to him, and that on the 27th day of June, 1860, I. F. Woodman as the agent and attorney of Tickel, in obedience to said decree, made a deed transferring all the property held by O. O. Woodman and said Burney to said Robert W. Burney, giving a full acquittance, &c.

They then state that, whereas, by their original bill they had claimed that said I. F. Woodman obtained said four notes by the return of the same to him as agent of the executor by said Burney in good faith, upon the receipt by him of said transfer and sale, they now, however, charge that since the filing of the original bill, they have discovered a paper in substance, this—(after setting out copies of these four notes,) a receipt signed by Woodman and Bement, (the Woodman being I. F. Woodman) reciting that they had purchased these notes of said Burney and that they agreed upon final settlement to pay him, Burney, whatever might be due him on said notes on demand, with the same rate of interest as in said notes allowed, and he allowing them upon their payments corresponding interest. At the same time it is alleged I. F. Woodman made his writing, reciting that in consideration of said transfer to Woodman and Bement, he agreed to keep and hold for the benefit of Burney, until final payment, the same or a corresponding security for the payment of said notes.

Attached to this paper as exhibits, are copies of all these notes, and it is charged that I. F. Woodman wrote said paper, that it "*speaks conclusively for itself the whole truth*," showing that he *obtained possession* of said notes, upon a distinct and positive agreement on the part of said Woodman acting for the firm as well as himself, that they *would pay said Burney the full and actual value of said notes on demand.* It is alleged that this paper was executed in 1864, after the dissolution of the firm of Woodman and Bement, and was in fact

the individual transaction of said Woodman, that thus said Woodman was entrusted with the said notes of said Burney, that the said Woodman and Bement have never paid for said notes nor made settlement therefor; that Woodman at Burney's death held the notes under this agreement, that they are the property of said Burney's estate, and that this paper is "living evidence of the fraud, deceit, &c., practiced by said Woodman in obtaining the judgment aforesaid."

The bill further charges that from the time of said sale to him until his death, said Burney remained in quiet possession of said property; that respondent Stone and I. F. Woodman conspired to procure the rendition of said judgment to defraud complainants with a view of pursuing the same against said lands, that Stone is a holder of these notes without value, that he received the same from said I. F. Woodman and with full notice of complainants equities, and as a part of their plan the suit was instituted in Louisiana to have the judgment enforced against said land.

Stone answers this amended bill by a denial of everything therein contained, upon which complainants could predicate any hope of relief.—(We refer to the answer Tr. 46, et seq.) He very explicitly denies the transaction, as complainants set it out, touching the receipt of Woodman & Bement, of 1864, for while admitting the receipts, he says, (what would seem to be undeniably true on the very face of the paper,) that Burney was indebted to Woodman & Bement and passed these notes to them as security, neither party at the time, by reason of their location and that of the books of the company, knowing the amount of said indebtedness; that the notes were not thereby discharged, but *purchased* by said firm; that after said notes were credited on his account, a balance still remained against Burney which was never paid, &c.; that Woodman did not take the notes to hold as Burney's property, but that they were then and there purchased by Woodman & Bement, and tha' he was paid their full amount, both principal

and interest. All fraud, combination, and collusion are positively denied and especially is it denied that respondent received these notes of I. F. Woodman, but he says that Woodman & Bement sold them for value to F. O. Woodman, who for like value sold them to Isaac Strickland, who endorsed them to respondent, no one of said endorsers having any notice of the matters set up by complainants, and all being innocent purchasers and holders.

Upon the issues thus joined, the case was heard upon depositions and certain documentary and written evidence, decree for complainants and respondent appeals. For the facts, and a more particular reference to the questions at issue, we beg to refer to the points made in the following

ARGUMENT.

After very carfully reading and re-reading this record, we confess to not a little surprise that any Court should have granted the prayer of this bill. And we must be permitted especially to express our surprise that this should have been done upon the grounds stated in the opinion of his Honor, Judge Hill. We propose first in a very brief manner to dispose of some matters found in that opinion.

First. It is said that Bement's testimony as to the consideration for the transfer of the notes to Woodman & Bement by Burney, is based in part upon the books of the firm, and in part upon his recollection, but as he has the books and papers of the firm in his possession and does not produce them, his testimony must be *rejected*, as it is a well established rule that the best evidence must be produced. Neither the facts nor the law are here well stated.

The witness was not asked to produce these books. It does not appear that he could have done so if asked. There was no objection to his testimony at the time it was taken, upon this or any ground. No motion was made to reject, or objection made to the reading of the deposition, or any part of it.

Neither by cross-examination nor otherwise, was it attempted to call his attention to the books or papers, nor were we asked to have the books produced.

Not only so, but it is not the law anywhere that a witness's statement of *a fact* which *may*, also, appear in books, but which it is not *necessary* should be in writing, is to be rejected under the rule that the best evidence must be produced. In this case the witness, Bement, states fully the contract or agreement under which these notes were received, (and this is the pivotal thing), a matter in no manner appearing in books, by papers or in writing, and to say that because the books show the items of Burney's account, or for what he was indebted, that therefore, his testimony is not the best and should be rejected, (and we say it with the utmost respect), scarcely rises to the dignity of what we sometimes call "chimney corner law," Who ever heard of this rule being applied to a case where the evidence offered in no manner indicated a more original source to the Court or trier? If this evidence was even *weaker* (than the so called books in this case which we deny,) it would be no *substitution* of evidence, but a mere selection of the *weaker* or perhaps an omission to supply *all* the proofs at our command, and hence no violation of the rule invoked by the Court below. The view of his Honor confounds all distinction between the weight of evidence and its legal admissibility. It certainly cannot require at our hands, before this Court, authorities or further words upon a proposition so nearly among the fundementals of the law as this. (But see 1 Gr. Ev., sec. 82, and cases cited.)

Strangely enough, too, the Judge puts the *rejection* of Bement's testimony upon the further ground that the evidence of I. F. Woodman was not taken, and no reason shown why it was not. We can hardly conceive of anything having so little the semblance of law as this. It is simply a statement that because we do not, in the opinion of the Court, supply *all the*

proofs at our command, therefore what we do present shall be *rejected.* That never was the law and probably never will be.

[Let us state here a fact, of which we are advised by our client, Judge Stone, and which we suppose will not be denied by appellees—that I. F. Woodman departed this life some time before this case was heard in the Court below, we having no knowledge of his illness and his death being quite unexpected. We mention this fact—out of the record we know—but explanatory of what might possibly be regarded as a damaging omission in the preparation of the defense. We trust that we shall not be prejudiced for our inability to make the dead speak.]

Second. The suggestion in the opinion that it is presumed the indebtedness from Burney to Woodman & Bement for which Burney transferred these notes, "was on the basis of confederate money," is, to say the least, an assumption without evidence, and the introduction of an element which, in any event, has nothing whatever to do with the rights of either party.

Third. Where is the evidence that Burney requested *an advance* of $10,000 on these notes? He says in his letter of September 6, 1873, (p. 36,) we know, that he wanted $10,000 to invest in cotton, and for it he would give a receipt against the notes. This was probably before he transferred the notes, for in his letter he says he sent them, (the notes,) off when everybody was running," and that as soon as he gets the notes he will settle them up. This could not have been after the transfer for they were nor then sent off, and he says the notes were transferred in 1864. But then what notes he refers to is left to conjecture. So again, what evidence that Barney seemed *anxious to settle* and could not succeed? Assume that Burney had no planting interest other than that in which I. F. Woodman was partner, it still might be that he would need to create a large indebtedness in his own name or in his own behalf, and thus become liable to Woodman & Bement, any-

thing in the opinion of the learned Judge to the contrary notwithstanding. He may have had many other planting interests, or if this one alone, he may have in many ways became involved, by overdrawing or otherwise, and thus found it necessary to make this transfer, and especially so, as he was *speculating in cotton*, as this letter shows, and how much he lost by these ventures no one can tell. It is not true that no reason is shown for the transfer to O. F. Woodman. Bement (p. 78, answer to 5, 4 int.) says that the "transfer was made for the amount of the notes and interest."

But leaving these assumptions and somewhat strange statements of law, as found in the opinion of the Court below, we come to consider what there is of this case, reduced to its elements and stripped of all extraneous matter.

There were four notes, all negotiable. They were once held and owned by Burney. This he admits, and, indeed, insists upon as a cardinal fact in this case. Being thus the owner and having the right to do so, he wrote and signed upon each note as follows: "Transfer order Woodman & Bement, with securities, value received. R. W. Burney." After this Woodman & Bement transferred the notes, by indorsement, to F. O. Woodman, who made them payable to I. Strickland, or bearer, and Strickland transferred to respondent. (See Tr., pp. 28, 29 and 30.)

Burney thus put these notes into the market. We don't care now whether he ever *paid* these notes as he claims, or whether as between Burney and I. F. Woodman these notes do or do not belong to Burney's estate, the fact is admitted, and not to be denied, that Burney did indorse them to Woodman & Bement—thus threw them upon the market—that they were afterwards negotiated, and we insist that neither he nor his administrator can be heard to say that these subsequent holders for value shall not take him at his word—hold him to his act—and as to him, recover of the maker the full amount of these notes. Whatever may have been the real transaction

between Burney and his immediate indorsers (Woodman & Bemant,) there is no particle of evidence that any one of the subsequent holders had any notice whatever of any equities, much less the equities now set up by these complainants. On the contrary we show that that F. O. Woodman paid value, and that Strickland bought the notes in good faith, as an investment, paying a good, full and valuable consideration for the same. (Strickland's dep., Tr., p. 74.) He says he never had any notice of "payment, discharge, or existing equities," that he received them in the ordinary course of trade, and that he bought them "considering them perfectly good," having confidence that the estate of O. O. Woodman was amply able to pay, having known him personally in his lifetime. Thus it will be seen that we do not leave the case to stand upon the legal presumption that we had no notice whatever of these alleged equities.

When Burney endorsed these notes he made a new contract not alone with Woodman and Bement, but with every subsequent indorsee, and thereby undertook and promised that they were payable according to their tenor, that the maker (or his estate) would pay the same, and that he (Burney) would pay the same if the maker did not. He is to be treated in law as the drawer of these bills or notes anew, as making a new contract. And we remark here, in passing, that it is quite immaterial how, or under what circumstances Stone (the respondent) holds this paper, since he took it from Strickland, who held it under a good title, without notice, and as neither Woodman's nor Burney's estate could defend against him, it makes no difference whether the notes remained in his, Strickland's, hands or passed to another's. For the rule is that though the title of the holder might be defeated, yet he may rely upon the better title of his indorser, since there is no wrong thereby to the maker or prior indorsers, who were anyhow obliged to pay such indorsee. (Parsons N. and B., Vol. 1, 261, note 9 and cases there cited. Vol.

2, pp. 14, 23, 24, 26, 27.) But aside from this most impregnable rule, it is shown that the notes were transferred to Stone for value, and that he is a holder without notice.

As showing, however, the relation of these complainants (or Burney's) to this paper, we remark further, that if he paid these notes, and afterwards by his act put them into circulation, especially as he did so by his formal endorsement, he must be held thereby, and cannot, as against Strickland, Stone or any subsequent indorser, set up the defense here attempted. He is estopped by his act from being heard to invalidate the force and effect of his indorsement. (Note w., 1 Parson's N. and B., 230.) By his act of endorsement and again putting this paper in circulation, he led all subsequent holders to believe it to be genuine, and not only so, but that he as endorser would protect such paper, into whosever hands it might come. This is so upon the clearest principle, and if for no other reason (assuming all that is said in this bill be true) because by his own negligence or laches he so placed the paper as that either he or a third person must suffer, and as the third person is innocent, of course the loss must fall upon the negligent indorser. Upon this principle was the case of *Bank U. S. vs. Bank of Georgia*, 10 Wheat, 333, decided for here as there, Burney issued these notes as genuine, and promised payment accordingly. And see *McGregor vs. Rhodes*, 6 El. and B. 266. And here another rule comes in, to-wit: That it would be the clearest fraud upon the public to allow this indorser, after he has said that his indorsee has power to negotiate this paper, to deny his power to do so. By his act he says to all the world that his indorsee has power and right to give property in the paper to others, and he is estopped from now denying it. And see the case of *St. John vs. Roberts*, 31 N. Y., 441, where it is said (as applicable to the principle we are now considering): "Such act of theirs was a representation of their liability on the note, and they are now estopped in good faith and sound morals from denying such liability. The

plaintiff purchased the note as thus presented, and they (defendants) have received the amount of the purchase money, and should not be permitted to deny their liability."

And see *Boehm, et al. vs. Sterling, et al.*, 7 Term, R. 423.

We need not stand alone, however, upon this doctrine of estoppel, since by the very terms of the contract under which Burney passed these notes to Woodman and Bement he would be without any possible defense, and especially such as is set up here. What do they allege in their bill? Just this, and no more: That *Burney indorsed the notes to Woodman and Bement, entrusted the same to I. F. Woodman, and that Woodman and Bement never paid for the same nor made settlement therefor.* If this is true, just as stated (and that is all there is of this case) plaintiff (Stone) would still clearly be entitled to his judgment, and there would be no earthly ground for equitable interference to set it aside. How can the failure of Woodman and Bement to pay what they agreed to pay for the notes to Burney, affect plaintiff's rights or the rights of any subsequent *bona fide* holder? This claim or inquiry, it will be seen, is more than sustained by the instrument made, and upon which complainants rely—this wonderful paper which they say they found after filing their original bill, and which, in their estimate, is to demolish this judgment and all rights under it. For, it will be observed, that this paper expressly recites that Burney *purchased* these notes of Brown, Johnson & Co., (the original indorsees) and that they (Woodman and Bement) have *purchased* them of Burney. This paper, complainants say, "speaks conclusively for itself the whole truth," and therefore conclusively shows that Woodman and Bement *purchased* those notes of Burney, and not that I. F. Woodman was merely *entrusted* with them, nor that he was holding them for Burney at his death. How they *purchased* them and still hold them for, or in trust for, the person from whom they purchased, would require explanation beyond anything here attempted, either in the bill or evidence. And especially so

as his special indorsement transfers the notes, *"with securities when received."*

What does this mean—(and especially to third persons) if there was a mere trust relation established? All this, as well as the paper signed by I. F. Woodman alone touching the securities, is plain enough, reasonable enough, and honest enough, upon respondent's theory, to-wit, that Burney was indebted to Woodman & Bement, how much they did not know, because their books were not before them, being at the time at New Orleans, that the notes were taken by them in payment or discharge of their debt *(pro tanto)* with the agreement that if the notes exceeded the indebtedness they would pay the balance with eight per cent., they being allowed a corresponding interest on their payments. This is what the writing itself says and what Bement verifies and corroborates by his testimony (Tr. 77-8.) And there is nothing in the *addendum* signed by I. F. Woodman in conflict with this. For by this he agrees to keep the security alive. Thus suppose it had turned out that Burney was owing Woodman & Bement but little if anything, then they would owe him all or a large portion of the notes thus purchased. To meet this contingency—(and it seems they did not know how it was or what was the exact state of their account, and we can hence well presume that each claimed most strongly for himself,) we say to meet this contingency Woodman agreed by this latter writing to keep the security good, or if the notes should be collected by them and thus the property held for their security be discharged, he agreed to keep and hold a like or corresponding security, until Burney was paid. This makes it all clear enough and is so perfectly consistent with the whole theory of the case as insisted upon by respondent, that it seems passing strange that complainants would even think of predicating upon those papers the rights or equities herein set up. Why this very paper (the *addendum*) shows that these notes were *transferred*, that they were truly the property of

Woodman & Bement, that the security was to be preserved not for Burney as the *owner* of the notes, but until Woodman & Bement *paid him.*

We beg the Court to look at its language and it will be found that instead of conflicting with our construction of this transaction it is in the most perfect accord with it. And therefore we say that the respondent is not only protected by the presumptions in his favor, growing out of his ownership after Burney had voluntarily put the notes again into circulation, but also by the affirmative testimony hereinbefore referred to, that the notes passed into the hands of others for value and without notice, and by the, if possible, more conclusive consideration, that by their own pleading and their own exhibits, it beyond all fair doubt appears that Burney did *sell* those notes and that they are not and were not held for him by Woodman as he claims and charges. And this being so, it would seem that this Court would have but little difficulty in reversing this decree.

Whether Woodman by the paper of June 27th, 1860, under an alleged decree of Court, acknowledged full payment and gave an acquittance as charged in this bill, would seem to be of but little importance. *First*, because Burney by his assignment of the notes secured by the mortgage, is estopped from setting up such discharge or acquittance against those claiming under or through his endorsement. *Second*, if true, however legitimate the matter thus set up might be as a defense to the action pending in Louisiana, or any one we may bring to subject the property there to the payment of this debt, it has no place as a defense to our judgment wherein we recover against O. O. Woodman's estate for a debt, which it is no where pretended either he or his estate has paid. *Third*, we deny any and all such acquittance or discharge, and there is no evidence to sustain this averment of the bill. *Fourth*, if anything, the transaction was simulated, procured by collusion between Burney and I. F. Woodman and in fraud of the rights

of creditors of said O. O. Woodman. There is no evidence that the supposed deeds or transfers were ever delivered. But in any event, if *bona fide*, these complainants have their protection in the other suit and there is no need that they should volunteer an effort to set aside a judgment, to which as such, or as a judgment, they have no possible defense. And it is a poor and impotent answer to say that we may still sue and recover on our notes—when they would—as the Court will see—be barred by the statute of limitations. And hence if this judgment is set aside at the instance of this intermedling volunteer, we are without remedy and must lose our claim, for which we paid full value.

One or two other matters and we have done. It is said that administration was granted on O. O. Woodman's estate in Louisiana, and then asked why was not the judgment taken there. It could have been, we grant. But it appears that letters testamentary were also granted in Mississippi, (see Original Declaration on Notes, p. 8; also complainant's original bill Folio 6,) and hence we could sue in Mississippi as well as in Louisiana.

But it is complained that I. F. Woodman *confessed* judgment. This he had a right to do, if there was no defense and he knew very well there was none. He could under the law of Mississippi pay a debt against the estate, of the correctness of which he was satisfied, without formal probate, or he could admit it to probate without the necessity of the usual proof when thus satisfied. And so he could therefore when suit was brought in a proper court decline to resist the truth of what he knew it would be vain to deny. As to his right to pay or admit to probate, see

Campbell vs. Young, 4 Miss. 301.
Succession of Pettis, 11 La. Ann. 177.
Branch Bank vs. Rhew, 37 Miss. 110.

We here leave the case. It seems to us that this decree must be reversed. Complainants have made their leap before

reaching the stile. We are entitled to our judgment. Whether we are entitled to enforce it against these lands is another thing, and which it will be time enough to determine when we come to that question. They are scared before they are legally hurt. Certain it is the estate of Burney has no right to volunteer to set aside a judgment, which O. O. Woodman's estate does not resist, and which Burney himself, if living, would be estopped from attacking, upon some vague fear that we may get hold of some property which Burney and others, before and since his death, have been seeking to cover up and hide from creditors. If they can do this, then it must be upon the barest suspicion of wrong upon our part and in the face of principles to which we have very hurriedly referred, but which will be recognized by this Court as of the alphabet of the law.

RESPECTFULLY SUBMITTED.

WRIGHT & LOWE,
for Appellant.

Supreme Court of the United States.

OCTOBER TERM, A. D. 1875.

In Equity.—No. 142.

WILLIAM A. STONE, APPELLANT,

vs.

EZRA B. TOWNE *et al.*

APPEAL FROM THE CIRCUIT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

BRIEF OF APPELLEES.

JOS. CASEY,
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STATEMENT OF THE CASE.

The case presents no questions of law, and but a single question of fact, to wit: Was the judgment confessed in 1869 by Ivory F. Woodman, administrator of O. O. Woodman, deceased, in favor of W. A. Stone, the appellant, an honest and valid judgment, or was it collusive, fraudulent and void? A *resumé* of the main facts, in their regular and chronological order, will aid in this inquiry.

In 1848 O. O. Woodman owned a plantation in Madison Parish, Louisiana.

In the same year he entered into a "planting partnership" with Robert W. Burney, on the same plantation. Later, he conveyed one-half of the plantation to Burney. They continued to cultivate it together until O. O. Woodman died, in August, 1859.

In November, 1857, O. O. Woodman made six promissory notes in favor of Brown, Johnston & Co., of New Orleans, for the aggregate sum of $17,761.15. The last of these notes matured on the 15th April, 1858. They bore 8 per cent. interest. To secure them he gave a mortgage on the premises in Louisiana. In his lifetime O. O. Woodman lifted and paid two of these notes. The other four remained due and outstanding at the time of his death, in 1859; and in the hands of the original payees, Brown, Johnston & Co.

O. O. Woodman and Robert W. Burney both resided in Louisiana, and Woodman's succession was opened there shortly after his death by letters to Joseph Tickle, the testamentary executor, who soon disappeared, leaving Ivory F. Woodman, the brother of O. O. Woodman, as agent to represent the estate.

After the death of O. O. Woodman, in 1859, Burney purchased from Brown, Johnston & Co., the remaining outstanding four notes, and the mortgage securing them. He immediately after instituted suit in the 2d district court of Louisiana on these notes against Ivory F. Woodman, representing the succession of O. O. Woodman, and obtained a decree for the conveyance to him of the said plantation, or Woodman's interest therein in satisfaction of the decree. This was done by public notarial act on the 27th day of June, A. D. 1860, vesting the whole estate in fee simple in Burney. (Record.)

Burney then gave a writing to Ivory F. Woodman, (see Record, p. 30,) agreeing to hold the estate with Ivory F. Woodman in the same manner he held the same with O. O. Woodman in his lifetime. Then the notes in this suit were delivered over to Ivory F. Woodman (see Record, pp. 41, 42, and 43,) to be held as vouchers against the payment made for the estate of O. O. Woodman, deceased. The papers or receipts here were drawn by Woodman alone, and did not concern, in any way, the business of Woodman & Bement.

This transaction occurred in February, 1864.

On November 15, 1865, Ivory F. Woodman transferred, by endorsement in the name of Woodman & Bement and his own, these same dishonored notes, more than seven years overdue, to his son, F. O. Woodman, without consideration of any kind.

June 19, 1866, F. O. Woodman transferred them to Isaac Strickland, who then and now lives in the State of Maine, and who is the father-in-law of Ivory F. Woodman.

In 1869, Strickland transferred the same notes to William A. Stone, the appellant, without any consideration, other than his services as attorney in the case. And then more than ten years after the death of O. O. Woodman, the notes never having been probated against this estate, Ivory F. Woodman appears to a suit and voluntarily confessed judgment for over twenty-one thousand dollars, in Mississippi, the succession having been opened, and letters testamentary issued in Louisiana.

From the testimony in the case it is morally certain that the notes were held and prosecuted for the use of Ivory F. Woodman, and that the pretended transfers to his son and his father-in-law were only colorable, and intended to defraud the estate of O. O. Woodman, and that of R. W. Burney.

The respondents had notice of record, by the motion of complainants, more than four months before the final hearing, to produce the books of Woodman & Bement, drafts, acceptances, and other papers referred to by A. H. Bement, in his deposition. (See Record, p. 54.)

Of the fact of Ivory F. Woodman's death before the hearing in the court below, stated outside of the record by counsel for appellants, I am not advised. If it is so, it is very singular that the attention of the court below was not called to this very important and material fact, especially as a part of the grounds of decision was the failure to examine him as a witness for respondents.

There is no allegation that F. O. Woodman, the son, was dead, and he is not produced as a witness to explain the very peculiar and singular position he occupied in the transactions.

This fraudulent judgment obtained in Mississippi had been certified to Louisiana, and was, when this bill was filed, in process of being enforced against the lands of these complainants, inherited from Robert W. Burney. Hence their interest in and connection with it, and their right to prosecute this bill.

Points of argument.

I. It was not a question of admissibility of evidence because of the best evidence accessible in the case not being produced; but the withholding by the respondents of most important and essential proofs admitted to be in their own possession. Their own account-books, their own drafts, acceptances, &c., paid, as they alleged, by them, for Burney. These notes, having been called for by the other side, then not produced, and the non-production not accounted for, required that the chancellor should give no sort of credence to the vague, general statements of Bement. It was therefore not a question of the rejection of evidence, but of the disbelief of the witness.

II. These parties lived in the Confederate States. The accounts and dealings between them all occurred during the war. The only circulation we know outside of the Union lines was Confederate money. Their correspondence on both sides shows that they were dealing with and through that medium. And the Court was justified in holding that whatever accounts were between them was on that basis, and to be measured by its value at the periods when the transactions took place. Hence the importance of the production of the books and papers to fix places, dates, amounts, &c.

III. The evidence was clear and distinct that Ivory F. Woodman had taken his position as a partner with Burney in place of his deceased brother, O. O. Woodman. Hence the court was fully justified in holding that the advances by Woodman & Bement, whatever they may have been, were for account of Burney & Woodman.

This furnished an additional reason why the papers and books, &c., called for should have been produced, and why their non-production, under the circumstances, should be regarded as a badge of fraud.

IV. The other questions of law, so learnedly discussed by my brethren on the other side, do not arise in the case:

1st. Because F. O. Woodman and Strickland & Stone were not *bona fide* owners and holders of the notes for value.

2d. The notes were dishonored long before either of these parties received them, and were, therefore, subject to all the equities existing between the parties.

3d. O. O. Woodman, the maker, had been dead more than ten years before Stone, the plaintiff in the judgment, had received the notes.

4th. The notes had never been probated and allowed against his estate, and were barred by the prescription of Louisiana, and the limitation in Mississippi.

5th. The absence of F. O. Woodman's testimony, and the unsatisfactory character of Strickland's, shows that neither of them were *bona fide* holders for value.

6th. That counsel was retained and the suit defended by Ivory F. Woodman, coupled with his continued and repeated declarations that the suit was being prosecuted by and for him, showed it to be a clear case of fraud and collusion.

V. But if F. O. Woodman and Strickland & Stone were

each and all *bona fide* holders for value paid, it would not avail them against Burney's estate, if Ivory F. Woodman or Woodman & Bement were not genuine owners and holders of the note.

The rule of law is thus stated:

"*After a bill or note is due it comes disgraced to the indorsee, and it is his duty to make inquiries concerning it. If he takes it, though he gives a full consideration for it, he takes it on the credit of the indorser, and subject to all the equities with which it may be incumbered.*"

Byles on Bills, by Sharswood, 161, 2 and 3.
Foley *vs.* Smith, 8 Wallace, 492.

This case decides that the law in Louisiana is the same.

Story on Prom. Notes, sec. 190.
2 Parsons, pp. 13 and 14.

"An indorsee of a note after maturity takes the same interest that the indorser had, and his claim is subject to the same defence."

See cases cited in Note 1, Byles on Bills, 162.

But, if on the grounds assumed by the appellant's counsel Burney was liable at all on his indorsements to Woodman, Strickland, or Stone, it would only be, if due diligence were used, demand made on the maker or his estate, and notice of nonpayment given to Burney.

Tyler *vs.* Young, 6 Casey, 143.
Beebe *vs.* Brooks, 12 Cal. Rep., 308.
St. John *vs.* Roberts, 6 Boswell, 593.
Goodwin *vs.* Davenport, 47 Maine, 112.

Need I add that over five years delay is an unreasonable time.

See 1 Parsons on Notes and Bills, p. 519, and the cases cited.

VI. The decree is not conclusive of the rights of the parties. It settles nothing but that the judgment rendered against the estate of O. O. Woodman, in Mississippi, was irregular and void. It expressly excepts a contest in a suit on these same notes in the courts of Louisiana, or a proceeding to charge the mortgaged premises with them there.

I shall insist on the argument that this decree was much more favorable to the appellants than they were entitled to under the proof and facts in the case.

JOS. CASEY,
Attorney for Appellees.